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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WRIT PETITION NO.7341 OF 2022

AND

W.M.P.NO.7372 OF 2022

Mr.K.Palaniappan

... Petitioner

-Vs-

The Commissioner,
Maraimalai Nagar Municipality,
No.2, Adigalar Salai,
Near BP Petrol Bunk,
Maraimalai Nagar,
Chennai-603 209.

... Respondent

Prayer :

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to re-assess and provide vacancy remission of Property Tax for the petitioner's property situated at No.5, Industrial Area 2, CMDA Maraimalai Nagar, Chennai 600 204 for the period of 2017-18 to 2021-22.

For Petitioner : Mr.G.Vijay Anand Associates

For Respondent : Mr.L.P.Maurya,
Standing Counsel

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondent to re-assess and provide vacancy remission of Property Tax for the petitioner's property situated at No.5, Industrial Area 2, CMDA Maraimalai Nagar, Chennai 600 204 for the period of 2017-18 to 2021-22.

2. The petitioner claims to be the owner of the property situated at No.5, Industrial Area , CMDA Maraimalai Nagar, Chennai-603 204.



3. In respect of the Property Tax, assessment order for the year 2017-18 to 2021-22 was passed. It is the claim of the petitioner that the property in question neither had been used by the petitioner for his own use nor had been let out for any rental purpose. Therefore, under the provisions of Section 87 of the Tamil Nadu District Municipalities Act, 1920, he had made request on 16.05.2019 through his lawyer, seeking for vacancy remission and the same since has not been considered, the petitioner has approached this Court by filing this Writ Petition with the aforesaid prayer.

4. Heard Mr.G.Vijay Anand, learned counsel for the petitioner who, after reiterating the afore stated, seeks indulgence of this Court for allowing the Writ Petition.

5. Mr.L.P.Maurya, learned Standing Counsel appearing for the Respondent Municipality submits that, as per Sub Section (3) of Section 87, if the conditions stated therein is complied with alone, the petitioner would be entitled to seek for vacancy remission and in this case, if no such compliance, certainly the petitioner may not be entitled for vacancy remission. Therefore, the present prayer cannot be granted, he contended.

6. I have considered the submissions made by the learned counsel appearing on either side and have perused the materials placed on record.

7. Insofar as the prayer sought for herein is concerned, it is only for a mandamus to give direction to the respondent to consider the request of the petitioner dated 16.05.2019 seeking for vacancy remission. Whether the petitioner is entitled to seek for vacancy remission, that is a matter to be decided on merits, of course under the provisions of Section 87 of the Act. Therefore, in this regard, after considering the merits of the claim made by the petitioner, a decision can be made by the Respondent Municipality on the representation of the petitioner dated 16.05.2019 on merits and the same may be communicated to the petitioner within the time frame fixed by this Court.

8. In that view of the matter, this Court is inclined to dispose of this Writ Petition with the following order.

"That there shall be a direction to the respondent to consider the petitioner's representation dated 16.05.2019 and pass orders on merits and in accordance with law and communicate the same to the petitioner within a period of six weeks from the date of receipt of a copy of this order."



9. Accordingly, this Writ Petition is disposed of with the aforesaid directions. No Costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Anu/KST

To

The Commissioner,
Maraimalai Nagar Municipality,
No.2, Adigalar Salai,
Near BP Petrol Bunk,
Maraimalai Nagar,
Chennai-603 209.

+lcc to M/s.L.P.Maurya, Advocate, S.R.No.22446
+lcc to M/s.G.Vijay Anand Associates, S.R.No.21290

W.P.No.7341 of 2022

JPII (CO)
PM/21/04/2022