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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2022

CORAM

THE HON'BLE MR. JUSTICE M.SUNDAR

W.P(MD)No.338 of 2022

and W.M.P. (MD)No.259 of 2022

R.Sarojini

... Petitioner

-Vs-

1.The Director,
Commissioner of Municipal Administration,
No.78, Urban Administrative Building,
Santhome,
Chennai - 28.

2.The Commissioner,
Madurai Corporation,
Madurai 20.

3.The Assistant Commissioner,
Zone II, Race Course Road,
Madurai Corporation,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 2nd respondent made in M2A6/06228/2018 dated 16.12.2021 and quash the same and consequently direct the respondent Nos.2 and 3 to follow the circular R.O.C.No.7234/2014/R1 dated 25.05.2018 issued by the 1st respondent and rework the property tax for the petitioner educational building.

For Petitioner : Mr.A.Srinivasan

For Respondents : Mr.T.Amjadkhan,
Government Advocate for R1

Mr.R.Murali for R2 & R3.

O R D E R

In the captioned main writ petition Mr.A.Srinivasan, learned
<https://hservices.courts.gov.in/hservices/> counsel on record for the writ petitioner, Mr.T.Amjadkhan, learned



Government Advocate who has accepted notice on behalf of the first respondent and Mr.R.Murali, learned Standing Counsel for Madurai Corporation who has accepted notice on behalf of respondents 2 and 3 are before this Court.

2. Owing to the short point involved, main writ petition is taken up with the consent of all the aforementioned learned counsel.

3. This is second round of litigation qua the same subject matter. Short point is writ petitioner sent a representation dated 07.02.2018 regarding vacancy remission and came to this Court by way of W.P.(MD)No.20229 of 2021 complaining of inaction. This writ petition i.e., W.P.(MD)No.20229 of 2021 was disposed of by this Court (after hearing both sides) in and by an order dated 11.11.2021 which reads as follows:

'In the captioned writ petition, writ petitioner has made a prayer which is in two limbs. One limb pertains to a simple mandamus to dispose of writ petitioner's representation dated 07.02.2018 pertaining to vacancy remission for writ petitioner's property at Door No.27, Lourdu Nagar 7th Street, K.Pudur, Madurai. The second limb seeks a direction to the respondents to provide underground drainage connection to this property.

2.Mr.K.K.Kannan, learned Standing Counsel for Madurai Corporation accepts notice on behalf of all the three respondents.

3.Owing to the narrow compass on which the captioned matter turns and owing to the simple nature of the issue main writ petition is taken up with the consent of both sides.

4. Regarding the first limb, writ petitioner counsel submits that vacancy remission request is traceable to Section 126 of Madurai City Municipal Corporation Act 1971, but learned Standing Counsel points out that vacancy remission under Section 127 is circumscribed by two facets. One is, writ petitioner cannot seek remission of more than 50% of tax and the other is, it has to be done in the half year concerned or the succeeding half year but not thereafter. However owing to the order I propose to make, I refrain myself from expressing any opinion on these aspects of the matter.

5.To be noted the aforementioned 07.02.2018 representation of the writ petitioner as placed before this Court as part of the case file is as follows :

தேவதாஸ் R. ஸோனா துனி,
க/மெ. பி. கிராமம்,
85, திருவள்ளூர் சாலை தெரு,
செய்யூர்,
மதுரை 7

உயாதிரு, ஆலமமலை அருகே,
மதுரை மாதவராயர்,
மதுரை 20.

பேருள்: மதுரை மாநகர ிகி அண்டலம் 2 - லாண்டு 48 ஈகிதிடிகு ணன் 5055
லாண் 27, லாந்து ஡ன் 7௮௮ செரு - லி ஈலக்கு குகிபுது ஈய்மதுலாண்.

மேற்படி விவரத்தில் உள்ள கட்டிடத்தில் கட்டட வீடுகள் செல்கின்றனவே!
மேல்க்கையாளர் இப்படி கருத்து. குறை பணி வந்த 2012 ஆம் ஆண்டிற்குத்
பொருள் செலவு அந்த கட்டிடம் பண்படுத்தாமல் சமீபது மேற்படி கட்டிடம் பண்படுத்த
வாரியால் அந்த பண்படுத்தக் முடியவில்லை. ஆகையால் பண்படுத்தி இவ்வாறு கட்டிடத்து
படி வீடுகளுக்கு உரித்தாகாது என்பதையும் கேட்டுக் கொள்கிறேன்.

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<https://hcservices.ecourts.gov.in/hcservices> the same;

a) the first respondent shall dispose of writ petitioner's aforementioned 07.02.2018 representation on its own merits and in accordance with law as expeditiously as his business would permit and in any event within three weeks from today i.e., on or before 02.12.2021;

b) the respondent while disposing of the above representation shall also consider the writ petitioner's request for underground drainage connection for the property concerned (by treating it as part of representation) and pass orders on

the same;



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c)The aforementioned two aspects shall be dealt with in one common proceedings;

d)The proceedings/orders disposing of the representation (including the writ petitioner's request for underground drainage connection) shall be communicated to the writ petitioner under due acknowledgment within five working days from the date of disposal;

e) Though obvious it is made clear that this Court has not expressed any view or opinion on the merits of the matter.

8.Captioned Writ Petition is disposed of with above directives. There shall be no order as to costs. '

4. Notwithstanding the aforementioned order, the second respondent vide proceedings dated 16.12.2021 bearing reference k2v6/06228/2018 (impugned order) has referred to the 11.11.2021 order of this Court and has made proceedings which are completely unconnected with 07.02.2018 representation of the writ petitioner.

5. Learned Standing Counsel for Madurai Corporation very fairly submits that there was some mix up regarding representations resulting in the impugned order. Learned Standing Counsel for Madurai Corporation also submits that it is an inadvertent error which happened at the secretarial level.

6. Ideally errors of the above nature though inadvertent should be avoided and this order is made in the hope that such errors do not occur in days to come.

7. Before this Court writes the operative portion of this order, it is necessary to make it clear that this Court has noticed that in the prayer in the captioned main writ petition writ petitioner has referred to a Circular dated 25.05.2018 bearing reference Roc.No.7234/2014/R1 and has sought disposal of her 07.02.2018 representation by giving the writ petitioner the benefit of this Circular. It is made clear that this Court is not expressing any view or opinion on this aspect of the matter also. In other words, this Court has not expressed any view or opinion on merits qua any facet or aspect of the matter.

8. In the light of the narrative thus far, the following order is made:

a)impugned order being order dated 16.12.2021 bearing reference W2v6/06228/2018 made by the second respondent is set aside;

b) it is made clear that the impugned order is set aside solely on the ground that an inadvertent



error has occurred while disposing of writ petitioner's representation dated 07.02.2018 in accordance with the earlier order of this Court dated 11.11.2021 made in W.P.(MD)No.20229 of 2021;

c) as a continuation of the aforementioned two limbs, though obvious, for the purpose of specificity it is made clear / reiterated that this Court has not expressed any view or opinion on the merits of the matter;

d) the second respondent shall now take up the representation of the writ petitioner dated 07.02.2018 (already scanned and reproduced in paragraph 5 of earlier order which has been scanned and reproduced in its entirety supra in this order) consider the same on its own merits and in accordance with law and dispose of the same as expeditiously as his business would permit and in any event within four weeks from today i.e., on or before 18.02.2022.

e) the order / proceedings of the second respondent disposing of writ petitioner's representation dated 07.02.2018 shall be communicated to the writ petitioner under due acknowledgement within seven working days from the date of disposal.

9. Captioned writ petition is disposed of in the aforesaid manner with the aforesaid directive. Consequently, captioned WMP thereat is disposed of as closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

vsm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

1.The Director,
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Santhome,
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2.The Commissioner,
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Madurai 20.

3.The Assistant Commissioner,
Zone II, Race Course Road,
Madurai Corporation,
Madurai.

+2 CC to M/s.R.MURALI, Advocate (SR-2007,SR-2302 [F] dated
21/01/2022)

+1 CC to M/s.SPL.GP (SR-2172[F] dated 24/01/2022)

+1 CC to M/s.A.SRINIVASAN, Advocate (SR-2299[F] dated 25/01/2022)

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and W.M.P. (MD) No.259 of 2022
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RD(03.02.2022) 6P 8C