BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2022

CORAM

THE HONOURABLE MRS.JUSTICE S. ANANTHI

S.A(MD)No.630 of 2005

The Kumbakonam Municipality,
rep. by its Commissioner,
Kumbakonam.

... Appellant/Respondent/Defendant

Vs

Sathik Ali

... Respondent/Petitioner/Plaintiff

PRAYER: Second Appeal filed under Section 100 of Code of Civil Procedure against the decree and Judgment, dated 26.02.2004 in A.S. No. 43 of 1999 passed by the learned Additional Sub Judge, Kumbakonam, confirming the decree and Judgment in O.S.No.821 of 1994, dated 28.11.1997, passed by the learned Principal District Munsif, Kumbakonam.

For Appellant	:	Mr.V.Raghupathi
For Respondent	:	Mr.V.K.Vijaya Ragavan

JUDGMENT

This Second Appeal has been filed by the appellant to set aside the decree and Judgment, dated 26.02.2004 in A.S. No. 43 of 1999 passed by the learned Additional Sub Judge, Kumbakonam, confirming the decree and Judgment in O.S.No.821 of 1994, dated 28.11.1997, passed by the learned Principal District Munsif, Kumbakonam.

2.The respondent has filed a suit in O.S.No.821 of 1994 to declare that he is entitled for tax reduction for the period from 31.01.1987 to 28.05.1993 and also to declare the enhanced tax fixed for the period from 1991-1993, 1993-1994 is against law and also for the relief of permanent injunction, not to collect the tax, as fixed by the Municipality. The said suit was dismissed on 28.11.1997. Against which, the plaintiff has filed an appeal in A.S.No.43 of 1999 and the same was allowed and thereby the suit was decreed on the ground that the Municipality did not follow the rules and regulations before enhancing the tax. Sufficient opportunity was not given to the plaintiff before enhancing the revised tax.

3.As per the Judgment of this Court in SA(MD)No.104 of 2005, in similar matter, this Court has dismissed the second appeal on the ground that no sufficient opportunity has been given to the plaintiff before enhancing the tax, thereby, the substantial question is answered as against the Municipality.

4.In this case also, similar procedure has been followed by the Municipality. The Municipality has not given sufficient opportunity to the plaintiff before enhancing the tax and it has not followed the due procedure.

5.In view of the above, this Second Appeal stands dismissed, confirming the decree and Judgment, dated 26.02.2004 in A.S. No. 43 of 1999 passed by the learned Additional Sub-Judge, Kumbakonam and the decree and Judgment in O.S.No.821 of 1994, dated 28.11.1997, passed by the learned Principal District Munsif, Kumbakonam. No costs.

19.07.2022

Index :Yes/No
Internet:Yes/No
PNM

S. ANANTHI, J.,

PNM

To

The Record Keeper,
Vernacular Section, Madurai Bench of Madras High Court,
Madurai.

JUDGMENT IN
S.A(MD)No.630 of 2005

19.07.2022