BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4828 of 2017
and
W.M.P.(MD)No.3854 of 2017

Ramasubbu ... Petitioner

Vs.

The Executive Officer,
Ettayapuram Town Panchayat,
Tuticorin. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the proceedings of the respondent made in Na.Ka.No.03/2013 dated 25.01.2017 and quash the same.

For Petitioner : Mr.R.Murali

For Respondent : Mr.K.Balasubramani,
Spl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The petitioner challenges the impugned demand made by the local body for payment of vacant land tax to the tune of Rs.2,98,756/- for the assessment year 2013 – 2014. The learned counsel for the petitioner took me through the contentions taken in the affidavit filed in support of the writ petition and submitted that the demand is without jurisdiction.

3.Per contra, the learned Special Government Pleader for the respondent submitted that no interference is called for. A counter affidavit has been filed and my attention was drawn to the stand taken therein.

4.I carefully considered the rival contentions and went through the materials on record. There is no dispute that the case on hand is governed by the provision set out in the Tamil Nadu District Municipalities Act, 1920. Section 81 (3) (a) of the said Act deals with levy of vacant land tax. The said provision reads as follows:-

> *"**81. Description and classes of property tax .—***
> *1............*
> *2............*

(3) (a) [Save as otherwise provided in clause (b), the Municipal Council shall, in the case of lands] which are not used exclusively for agricultural purposes and are not occupied by, or adjacent and appurtenant to, buildings, [levy property tax on such lands at such rate as it may fix, having regard to its location and subject to the minimum and maximum rates per square feet as may be prescribed by the State Government."

5.From a bare reading of the aforesaid provision, one can easily conclude that if the land in question is adjacent and appurtenant to the buildings, then vacant land tax cannot be levied thereon. In the counter affidavit itself, it has been admitted that the respondent panchayat issued building plan approvals for the construction of match work industry. It is further admitted that based on approvals granted, the match works unit was put up in the petition mentioned lands and that it is also being assessed to property tax. The petitioner owns 4 ½ acres in S.No.169/3. Since the petitioner is running a match works unit, he has to necessarily maintain safety distance. It is seen from paragraph No.5 of the counter affidavit that as many as three buildings have been put up by the petitioner and that is why, there were three assessments. Since the lands in question are contiguous and appurtenant to the aforesaid three buildings, it is not open to the respondent to levy vacant land tax. That would run counter to Section 81(3)(a) of the Act. The impugned demand is quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

30.06.2022

Index : Yes / No
Internet : Yes/ No
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To:

The Executive Officer,
Ettayapuram Town Panchayat,
Tuticorin.

G.R.SWAMINATHAN, J.

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W.P(MD)No.4828 of 2017

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