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W.P.No.736 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 11.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.Nos.736 of 2023

&

W.M.P.No.681 of 2023

in

W.P.Nos.736 of 2023

M/s.SaravanaSelvarathinam Retail Pvt. Ltd., &
M/s.ShriRathna Akshaya Estates Pvt. Ltd.,
Represented by its Managing Director Saravana Arul
Door No.9, Thuraipakkam – Pallavaram Radial Salai
Chennai – 600 047 ... Petitioner

Vs.

The Commissioner
Tambaram Municipality
Office of Tambaram Municipality, Zone 2
Tambaram,
Chennai – 600 044. ... Respondent

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for the records of the entire proceedings of the respondent herein from the special notice dated 09.11.2022 in Notice No.009/0268193, the first demand notice dated 02.12.2022, the second demand notice dated 23.12.2022 and the final demand notice dated 26.12.2022 for the Assessment No.009/024/904460 and quash the same proceedings starting from 09.11.2022 upto



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26.12.2022 in so far as relates to the petitioner's property at Door No.9,
Thuraipakkam Pallavaram Radial Salai, Pallavaram, Chennai – 600 047.

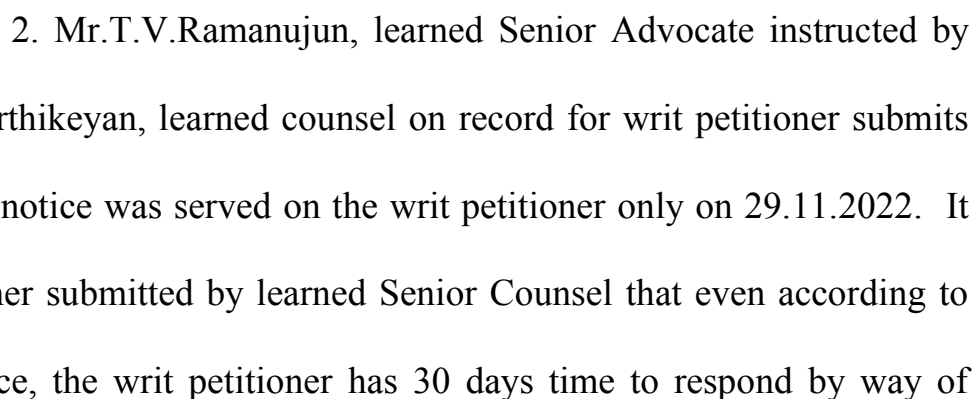
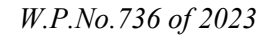
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For Petitioner : Mr.T.V.Ramanujun
Senior counsel
instructed by Mr.G.Karthikeyan

For Respondent : Mr.J.Ravindran
Additional Advocate General
for Ms.R.Rebecca Vasanthini Percy
representing Ms.M.Sneha
Standing Counsel for Tambaram Municipality

ORDER

Captioned writ petition pertains to enhancement of property tax for a property at Door No.9, Thuraipakkam Pallavaram Radial Salai, Pallavaram, Chennai – 600 047. The lone respondent in the writ petition had issued a 'notice bearing reference Notice No.009/0268193, signed on 09.11.2022' [hereinafter 'said notice' for the sake of convenience and clarity] and a scanned reproduction of the same is as follows:





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revision [புனர்விசாரணை] but a 'demand notice dated 02.12.2022'

[hereinafter 'said demand notice' for the sake of brevity] has been issued (before 30 days elapsed) and a scanned reproduction of the same is as follows:

[illegible]



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3. Mr.J.Ravindran, learned Additional Advocate General appearing on behalf of Ms.R.Rebecca Vasanthini Percy representing Ms.M.Sneha, learned Standing Counsel for Tambaram Municipality, submitted that it is for the writ petitioner to demonstrate that the said notice was served on the writ petitioner only on 29.11.2022. It was pointed out that there is nothing on record (in the case file) to demonstrate that said notice was served on the writ petitioner only on 29.11.2022.

4. Said notice obviously could not have been served on the writ petitioner prior to 09.11.2022 as it has been signed only on 09.11.2022. Even if 09.11.2022 is taken as the reckoning date, 30 days therefrom elapsed only on 09.12.2022 but said demand notice has been issued on 02.12.2022. It comes to light that post demand notice, a notice captioned 'இறுதி அறிவிப்பு' dated 26.12.2022 which appears to be in the nature of destriant notice has also been issued.

5. It is submitted by learned counsel writ petitioner that owing to the respondent jumping the gun, the writ petitioner's right to respond to said notice has been hampered.



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6. Owing to the narrow compass on which the captioned writ petition turns, with the consent of learned counsel on both sides, main writ petition was taken up and heard out. To be noted, dispositive reasoning is, writ petitioner ought not to have jumped the gun before 30 days elapsed.

7. In the light of the narrative and discussion thus far, the following order is made:

a) the demand notice dated 02.12.2022 and இறுதி அறிவிப்பு dated 26.12.2022 are kept in abeyance;

b) the writ petitioner's response to said notice i.e., notice bearing reference Notice No.009/0268193, signed on 09.11.2022, shall be considered by the respondent and a decision shall be taken as expeditiously as the business of the respondent would permit but in any event within four weeks from today i.e., on or before 08.02.2023;

c) as there is some disputation about whether the Tamil Nadu District Municipalities Act, 1920 would apply or whether a different Statute would apply, owing to



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Tambaram Municipality being upgraded to a Corporation will also arise for consideration. It is open to the writ petitioner to send additional response to said notice raising all points available to writ petitioner and this shall be done within a fortnight from today i.e., on or before 25.01.2023;

d) the decision qua said notice taken by the sole respondent on or before 08.02.2023 shall be communicated under due acknowledgement to the writ petitioner within 5 working days from the date of decision;

e) thereafter, demand notice and இறுதி அறிவிப்பு dated 02.12.2022 and 26.12.2022 respectively will either get resuscitated, modified or nullified depending on the outcome of the aforementioned drill.

Captioned writ petition disposed of with the aforementioned directives. Consequently, captioned WMP disposed of as closed . There shall be no order as to costs.

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Index: yes/no

Speaking /Non-speaking Order

Neutral Citation : Yes/No



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To
The Commissioner
Tambaram Municipality
Office of Tambaram Municipality, Zone 2
Tambaram, Chennai – 600 044.



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M.SUNDAR, J.,

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