



WEB COPY

W.P.No.5855 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

**W.P.No.5855 of 2023 &
W.M.P.No.5858 of 2023**

Unaitted Builders Consultants (P) Limited,
Rep. by its Authorised Signatory,
Mr.S.Subramani

... Petitioner

VS.

The Secretary,
Corporation of Coimbatore,
P-14, 1109, Big Bazaar Street,
Near TK Market, Town Hall,
Coimbatore - 641 001.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for writ of Certiorarified Mandamus calling for the records in pursuance of the Demand Notice dated 13.02.2023 issued by the respondent Corporation to the petitioner in respect of the property situated at Door No.1090/1619, Trichy Road, Coimbatore - 641 018, quash the same and issue appropriate direction directing the respondent Corporation to depute a Surveyor to inspect and re-assess the property tax by measuring the actual completed plinth area of the building owned by the petitioner.



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For Petitioner : Mr.T.Thiageswaran

For Respondent : Mr.Najeeb Usman Khan,
Standing Counsel

ORDER

This writ petition has been filed challenging the demand notice dated 13.02.2023 issued by the respondent Corporation in respect of the property situated at No.1090/1619, Trichy Road, Coimbatore - 641 018.

2. Mr.Najeeb Usman Khan, learned Standing Counsel accepts notice on behalf of the respondent. By consent of both the parties, this writ petition is taken up for final disposal in the admission stage itself.

3. Heard Mr.T.Thiageswaran, learned counsel for the petitioner and Mr.Najeeb Usman Khan, learned Standing Counsel appearing for the respondent.

4. The petitioner has challenged the impugned notice on the ground that with regard to the very same subject matter and property, a suit has been filed by the petitioner before the Sub Court, Coimbatore in O.S.No.387 of 2016. According to the petitioner, in respect of earlier demand notice made



by the respondent, the petitioner has filed the aforementioned suit and the said suit was dismissed for default and subsequently, the said suit was restored by a conditional order by directing the petitioner to pay 25% of the earlier demand dated 15.12.2015. According to the petitioner, the said conditional order has been duly complied with. It is case of the petitioner that excepting for the ground and first two floors, the remaining floors are incomplete and they remain unoccupied.

5. Admittedly, the petitioner has not given any representation as per section 127 of the Coimbatore City Municipal Corporation Act, 1981 which enables them to seek vacancy remission on account of their alleged statement that the floors from 3 to 8 remain unoccupied and therefore, they are not liable to pay the property tax for the said unoccupied floors.

6. No prejudice would be caused to any of the parties, if the petitioner is put on terms and they are directed to submit a representation exercising their powers under Section 127 of the Coimbatore City Municipal Corporation Act, 1981 seeking for vacancy remission in respect of the floors which are incomplete and are presently unoccupied. However, till final



orders are passed on the petitioner's representation in view of the fact that the suit has already been filed with regard to the very same subject matter and property, the petitioner is being put on terms in this writ petition by directing them to pay a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) within a time frame to be fixed by this Court.

7. For the foregoing reasons, this writ petition is disposed of by directing the petitioner to deposit with the respondent a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) within a period of two weeks from the date of receipt of a copy of this Order along with a representation under section 127 of the Coimbatore City Municipal Corporation Act, 1981 seeking for vacancy remission in respect of incomplete and unoccupied floors namely Floor Nos.3 to 8 in the property situated at Door No.1090/1619, Trichy Road, Coimbatore - 641 018 and on receipt of the said payment as well as the representation, the respondent shall pass final orders on merits and in accordance with law as per the provisions of section 127 of the Coimbatore City Municipal Corporation Act, 1981 within a period of four weeks thereafter. Till final orders are passed, the respondent shall not take any coercive steps against the



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petitioner with regard to the impugned demand. No costs. Consequently,
connected miscellaneous petition is closed.

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Index : Yes/No

Speaking/Non speaking orders

Neutral citations : Yes/No



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To

The Secretary,
Corporation of Coimbatore,
P-14, 1109, Big Bazaar Street,
Near TK Market, Town Hall,
Coimbatore - 641 001.

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ABDUL QUDDHOSE, J.



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