IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.03.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.6684 of 2020
and WMP No.7931 of 2020

Mr.K.Palaniappan

... Petitioner

Vs

The Commissioner,
Maraimalai Nagar Municipality,
No.2, Adigalar Salai,
Near BP Petrol Bunk,
Maraimalai Nagar, Chennai – 603 209.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling upon the respondent herein to produce the file with regard to the impugned order issued by the respondent in the name of the previous owner in proceedings No.020/009/00154 dated 22.02.2020 and quash the same and direct the respondent to collect property tax for the petitioner's premises situated at No.5, Industrial Area 2, CMDA Maraimalai Nagar, Chennai – 603 209 after providing vacancy remission under Section 87 of the Tamil Nadu District Municipalities Act, 1920 and in compliance with G.O.Ms.No.150 dated 19.11.2019.

For Petitioner : Mr.S. Ganesh
for M/s.G.Vijayanand Associates

For Respondent : Mr.Lourdu Paul Maurya
Standing Counsel

O R D E R

The petitioner has challenged notice of demand dated 22.02.2020 demanding tax by the Commissioner, Maraimalai Nagar Municipality in respect of a plot ad measuring 35,000 sq.ft. at No.5, Industrial Area 2, CMDA Maraimalai Nagar, Chennai – 603 209.

2. A perusal of the affidavit would indicate that the entirety of the petitioner's case rests on the fact that out of 35,000 sq.ft., the petitioner had occupied only 3,000 sq.ft. and the balance 32,000 sq.ft. remained vacant. However, and as pointed out in the counter filed by the respondent, no application has been filed by the petitioner seeking vacancy remission.

3. At the time of admission, the petitioner was directed to remit 50% of the impugned demand as a pre-condition for grant of interim stay of the balance. This order has, admittedly, been complied with. The position that obtains now is that the petitioner has not remitted tax thereafter on the strength of the fact that it is lying vacant.

4. However, it is not for this Court to consider the grant or otherwise of the vacancy remission, as the petitioner has to approach the authorities after complying with the conditions set out under Section 87(2) and (3)(a) of the Tamil Nadu District Municipalities Act, 1920.

5. In fact, the petitioner appears to have filed a Writ Petition in W.P.No.7341 of 2022 seeking a mandamus directing the same respondent as before me to re-assess and provide vacancy remission of property tax. That Writ Petition was disposed on 30.03.2022 referring to the representation filed by the petitioner on 16.05.2019 and issuing a direction to the respondent to pass orders within a period of six (6) weeks.

6. Pursuant to that, the respondent appears to have rejected the representation seeking vacancy remission by order dated 05.08.2022. There is an endorsement in the order to the effect that this order has been received by one Balu. However, the relationship of the said Balu with the petitioner is unknown.

7. A copy of this order is also handed over to the learned counsel for the petitioner today for onward transmission to the petitioner, if he wishes to challenge the same. Since the respondent is not in a position to establish proper service of the order upon the petitioner at this juncture, liberty is granted to the petitioner to challenge order dated 05.08.2022 in accordance with law.

DR.ANITA SUMANTH,J.

8. This Writ Petition is dimissed with liberty as above. No costs. Connected Miscellaneous Petition is also dismissed.

08.03.2023

Index : Yes / No
Speaking/non-speaking Order
Neutral Citation : Yes/No
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To

The Commissioner,
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