BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.19326 of 2023
and
W.M.P.(MD).No.16001 of 2023

Sivagami ... Petitioner

Vs.

The Assistant Commissioner,
Zone-4, Madurai Corporation,
Madurai. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to consider the representation of the petitioner dated 04.09.2021 in light of the order passed by this Court in W.P.(MD).No.15287 of 2018 dated 16.07.2018.

For Petitioner : Mr.RM.Arun Swaminathan

For Respondent : M/s.S.Devasena,
Standing Counsel.

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ORDER

This Writ Petition is filed for Mandamus, directing the respondent to consider the representation of the petitioner dated 04.09.2021 in light of the order passed by this Court in W.P.(MD)No.15287 of 2018 dated 16.07.2018.

2. The contention of the petitioner is that earlier, the writ petitioner filed a Writ Petition in W.P.(MD)No.15287 of 2018 and this Court vide order dated 16.07.2018, has directed the respondent to consider the petitioner's case in a sympathetic way and pass appropriate orders. But the respondent without considering the petitioner's case sympathetically has passed the impugned order directing the petitioner to pay the property tax to the tune of Rs.7,22,085/-.

3. The contention of the petitioner is that after the construction of flyover, the petitioner's property is not fetching commercial rent from the said building. Hence, a representation was submitted to the respondent and filed the aforesaid writ petition in the year 2018. Without considering the petitioner's case, again the respondent is imposing Rs.55,545/- as property tax. Therefore, again the petitioner has come before this Court.

4. The contention of the respondent is that the issued raised by the petitioner was already considered by the respondent and the present impugned order is passed. The respondent is entitled to fix the property tax based on the usage of the building, since the building is used as commercial, the property tax is imposed based on the commercial usage.

5. It is seen that the building was used for commercial purpose and it was fetching appropriate rent earlier, after the construction of flyover, the value of the building has diminished. When the building cannot fetch any commercial value due to flyover, thereby ,there is diminishing value for the building, then the respondent is bound to consider the petitioner's case. The property tax is imposed based on the location of the building, usage of building. Therefore, this Court is of the considered opinion without considering this fact the respondent cannot impose property tax.

6. This Court vide order dated 08.08.2023, directed the petitioner to pay Rs.20,000/-. Therefore, in the interest of justice and to balance the rights of the parties, the petitioner is directed to pay Rs.50,000/- (Rupees Fifty Thousand

only) to the respondent and thereafter the respondent shall consider the petitioner's claim in the light of the fact that the building is having diminishing value. The said exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

29.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

Nsr

To
The Assistant Commissioner,
Zone-4, Madurai Corporation,
Madurai.

S.SRIMATHY, J.

Nsr

W.P.(MD).No.19326 of 2023

29.08.2023