BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.29459 of 2023 and
WMP(MD) Nos.25420, 25421 & 25424 of 2023

Arulmigu Kattu Badra Kaliamman Temple,
Tirumangalam,
Through its
Executive Officer,
Madurai District. ... Petitioner

Vs

1.The District Collector,
Collector Office,
Madurai.

2.The Commissioner,
Tirumangalam Municipality,
Madurai District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Certiorarified Mandamus, calling for the record of the impugned order of the second Respondent in Na.Ka.No.1531/2023/A1 dated 12.10.2023 and quash the same is illegal and consequently direct the second respondent to assess property tax for properties in Madurai District, Tirumangalam Town, S.No.295/1A2, S.No.295/1-C, S.No. 204/14, S.No.207/2, S. No.208/2, S.No.225/3A, S.No.98/7-A, S.No.268/4 -14.57 acres.

For Petitioner	:	Mr.S.Manohar
For R1	:	Mr.G.V.Vairam Santhosh Additional Government Pleader
For R2	:	Mr.K.Kannan Standing Counsel

O R D E R

The petitioner temple, namely Arulmigu Kattu Badra Kaliamman Temple, Tirumangalam has approached this Court that the Commissioner, Tirumangalam Municipality/the second respondent herein has refused to receive property tax for its properties in S.Nos. 295/1A2, 295/1-C, 204/14, 207/2, 208/2, 225/3A, 98/7-A and 268/4 to an extent of 14.57 acres.

2.The learned counsel appearing for the petitioner submits that the subject properties were granted to Arulmigu Kattu Badra

Kaliamman Temple, Tirumangalam as inam and the settlement Tahsildar has passed an order in favour of the temple in Proceedings in PR.663/N.I.Act/TMM/68 dated 19.08.1968. By the settlement order, the Settlement Tahsildar has declared that the above lands are Iruvaram minor inam granted for the support of the Temple and also passed an order that the temple is entitled for a patta under Section 8(2)(ii) of Tamil Nadu Act 30 of 1963. The learned counsel by relying upon the proceedings of the District Collector, Madurai in Roc.No. 66588/2002/J2, dated 27.02.2004 submits that based on the orders of the Settlement Tahsildar, patta was directed to be issued in the name of the above temple for the subject properties and accordingly, patta was also issued. While so, the respondents are collecting property tax for the subject properties from the third parties without any basis. The petitioner's application to assess the property tax in the name of the temple was also rejected based on a legal opinion given by a Panel counsel.

3.In response to this writ petition, the Commissioner, Tirumangalam Municipality has filed a counter affidavit stating that there are some occupants in the subject property and assessment can be made only after providing opportunity to the concerned occupants. The second respondent has suggested this petitioner to work out his remedy before the appropriate civil Court to establish his rights over the subject properties. The learned counsel for the second respondent has also suggested this Court to implead the so called occupants as parties to this writ petition to decide the issue.

4.This Court considered the rival submissions made and also perused the materials placed before this Court.

5.The petitioner temple has approached the second respondent Municipality that they are the owners of the properties in S.Nos.295/1A2, 295/1-C, 204/14, 207/2, 208/2, 225/3A, 98/7-A and 268/4 to an extent of 14.57 acres, Tirumangalam, Madurai. The petitioner has enclosed a copy of the order passed by the Settlement Tahsildar and the District Collector in favour of the petitioner temple. However, it appears that the second respondent Municipality has refused to assess the property tax in the name of the temple. Even, if there are any occupants and they have been assessed by the second respondent Municipality, in all fairness, the second respondent ought to have conducted an enquiry in respect of right and title over the property of these occupants and thereafter they ought to have taken a decision. Instead, the petitioner, who is having a title by way of a valid document was driven to approach a civil Court to establish their rights. This Court is of the view that the second respondent Municipality is not supposed to assess the property tax in a mechanical manner without even ascertaining the right and title of the parties over the subject properties. This Court is not inclined to observe more on the conduct of the second respondent Municipality.

6.In view of the above, this writ petition is disposed of with a direction to the second respondent to conduct an enquiry based on the representation of the petitioner, after providing an opportunity of hearing to the so called occupants and pass necessary orders within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petitions are closed.

18.12.2023

NCC : Yes / No.
Index : Yes / No.
Internet: Yes / No.
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Note: Issue order copy on **21.12.2023.**

To

1.The District Collector,
Collector Office,
Madurai.

2.The Commissioner,
Tirumangalam Municipality,
Madurai District.

B.PUGALENDHI, J.

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Order made in
W.P.(MD)No.29459 of 2023 and
WMP(MD) Nos.25420, 25421 & 25424 of 2023

18.12.2023