



W.P.Nos.17086 of 2010 & 28424 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.17086 of 2010 & 28424 of 2013 and
MP.Nos.2 & 3 of 2010, 1 of 2013 and WMP.No.16744 of 2016

WP.No.17086 of 2010

G.Jayaraman

... Petitioner

Vs.

1.The Commissioner,
Pollachi Municipality,
Pollachi

2.S.Chandrasekaran
(second respondent impleaded as per order
dated 25.08.2015 in MP.No.1 of 2011 in
WP.No.17086 of 2010)

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorari calling for the records relating to the proceedings of the respondent bearing Na.Ka.No.G21/11316/2008 dated 06.04.2009, Na.Ka.No.G1/5481-09 dated 03.07.2009 and the two orders, both bearing Na.Ka.Nos.11316/-8/G1 and both dated 15.07.2010 and to quash the same.

For Petitioner : Mr.Kandhan Duraisami



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For Respondents

For R1 : Mr.S.Nedunchizhiyan

For R2 : Mr.P.P.Shanmugasundaram

WP.No.28424 of 2013

G.Jayaraman

... Petitioner

Vs.

Pollachi Municipality,
represented by its Commissioner,
Pollachi

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorari calling for the records of the respondent in RC.No.2672/2013/A3 dated 24.09.2013 and quash the same.

For Petitioner : Mr.Kandhan Duraisami

For Respondent : Mr.R.Lakshmi Narayanan,
Standing Counsel

COMMON ORDER

The writ petition in WP.No.28424 of 2013 has been filed challenging the notice of demand of property tax dated 24.09.2013.

2. The petitioner had renovated the existing superstructure as Manager in the name of 'Shri Ram Mahal Kalyana Mandapam'. It was



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assessed with service tax by the Central Excise Department from the year 2004. The building of the marriage hall is assessed with municipal tax. It has been revised from time to time. While being so, in the year 2007, the petitioner had built an extension of the said property and the same was objected by the respondent since the petitioner had encroached 66 feet scheme road. Therefore, the respondent issued notice dated 03.07.2009 thereby directed the petitioner to remove the unauthorised construction. It was challenged before this Court in WP.No.15868 of 2009. This Court by order dated 22.06.2010, disposed of the writ petition by leaving it open to the respondent or any other competent authority to form the scheme road after following the procedures contemplated under Tamilnadu Town and Country Planning Act, 1971. In pursuant to the said order, the petitioner was issued fresh notice dated 15.07.2010 and directed to remove all construction and also to shut down the premises. Further, the petitioner was also issued direction to give consent for donating his land for the purpose of scheme road. Therefore, the petitioner challenged the said notice in WP.No.17086 of 2010.



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2.1 For the said notice, the petitioner submitted explanation and once again the respondent issued notice to the petitioner informing that the building constructed by the petitioner has been assessed for tax to the tune of Rs.2,28,405/- per half year and the petitioner is liable to pay cumulative sum of Rs.58,71,345/- towards tax from the year 2001. The petitioner submitted reply dated 23.05.2013. It was not considered and issued another notice to the petitioner on 13.06.2013 thereby sought for copy of the patta passbook. Further, the petitioner was also directed to produce the partition deed. By further communication dated 20.08.2013, the petitioner was directed to produce self assessment for the construction of marriage hall. The petitioner replied that there was no new construction and the entire construction was made before 40 years. While being so, the respondent issued demand notice dated 13.09.2013 thereby directed the petitioner to make a payment of Rs.19,18,718/- as property tax for the building. The petitioner submitted his reply. However, reply was not satisfied to the respondent and issued order dated 24.09.2013 thereby directed the petitioner to make a payment of Rs.19,18,788/-



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within a period of seven days from the date of receipt of the order.

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3. On perusal of the counter filed in WP.No.28424 of 2013, revealed that the petitioner unauthorisedly made encroachments. The constructions were made recently and converted the old structure as marriage hall. Insofar as the earlier demand of Rs.58,71,345/-, it was given up on receipt of the explanation submitted by the petitioner. As per the new calculation, the respondent made demand. Therefore, this Court finds no infirmity or illegality in the impugned order of demand dated 24.09.2013. As such, the writ petition in WP.No.28424 of 2013 is devoid of merits and liable to be dismissed.

4. Insofar as the writ petition in WP.No.17086 of 2010 is concerned, it has been filed challenging the proceedings of the respondent dated 06.04.2009, 03.07.2009 and 15.07.2010. It is seen that already notice was issued to the petitioner that if the petitioner is not willing to hand over the portion by way of gift, the respondent is ready to take appropriate action for acquisition of land for road portion in accordance



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with law. In fact, the petitioner encroached part of the road and constructed marriage hall. In this regard, already the petitioner is facing criminal prosecution. Therefore, this Court finds no infirmity or illegality in the impugned orders of the respondent. As such, the writ petition in WP.No.17086 of 2010 is also liable to be dismissed.

5. In the result, both the writ petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

16.08.2024

Neutral citation:Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To

1.The Commissioner,
Pollachi Municipality,
Pollachi



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G.K.ILANTHIRAIYAN, J.

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