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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM :

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

S.A.No.94 of 2013

Arulmigu Parvatha Vardhini Samedha
Ramanatheswarar, Sowdambigai Amman Temple,
Cuddalore O.T.,
rep. by its Managing Trustee,
Sankaran Street, Cuddalore. ... Appellant

Vs.

Cuddalore Municipality,
rep. by its Commissioner,
Municipal Office,
Cuddalore-1. ....respondent

Prayer:- This Second Appeal has been filed under Section 100 of Civil Procedure Code against the Judgment and decree dated 21.02.2011 made in A.S.No.23 of 2010 on the file of the I Additional Subordinate Judge, Cuddalore reversing the judgment and decree dated 30.04.2008 passed in O.S.No.786 of 2004 on the file of the District Munsif, Cuddalore.

For Appellant : Mr.S.Kingston Jerold

For Respondent : Mr.L.P.Mourya

JUDGMENT

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This Appeal has been preferred as against the Judgment and decree dated 21.02.2011 made in A.S.No.23 of 2010 on the file of the I Additional Subordinate Judge, Cuddalore reversing the judgment and decree dated 30.04.2008 passed in O.S.No.786 of 2004 on the file of the District Munsif, Cuddalore.

2.A suit in O.S.No.786 of 2004 had been presented by the appellant herein, which is the owner of the suit property, for recovery of a sum of Rs.11,425/- being the arrears of rent payable by the respondent Municipality till 31.07.2004.

3.The suit was contested and a decree has been rendered as prayed for. The lower Appellate Court had set off all the amounts payable by the respondent Municipality as against the rent tax dues.

4. When the Appeal came up for hearing on 02.01.2004, I informed Mr.L.P.Mourya that the temple being the owner of the property, wherein, an educational institution has been functioning, it is entitled to claim

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general exemption under Section 83(c) of the Tamilnadu District Municipalities Act, 1920. Therefore, the question of set off against property tax dues would not arise.

5.When these facts are brought to the notice of Mr.L.P.Mourya, he requested time to consider the claim of the appellant and settle the matter.

6.Due to intervention of Mr.L.P.Mourya, the respondent Municipality sent a cheque for a sum of Rs.11,425/- which was drawn in the name of the appellant vide cheque no.358552 dated 06.01.2024 drawn on Punjab National Bank.

7.Since the respondent Municipality has paid the amount and it is also submitted that it has vacated the premises in July 2004, no further adjudication is necessary in this Second Appeal. Suffice to record the payment made by the respondent Municipality in favour of the appellant leaves no other issues to be decided.

8. It is made clear that the Temple is entitled to claim benefit of

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general exemption under Section 83(c) of the Act only in respect of the property where the Educational Institution is running and not with respect to those properties where it is generating income derived by way of Commercial rentals.

9.In fine, the Second Appeal is allowed in the above terms. The judgment and decree of the I Additional Sub Judge, Cuddalore in A.SNo.23 of 2010 dated 21.02.2011 in reversing the judgment and decree of the Court of the learned District Munsif, Cuddalore in O.S.No.786 of 2004 dated 30.04.2008 is set aside. The payment of Rs.11425/- made to the appellant by the respondent Municipality is recorded. The cause stands extinguished by virtue of the payment of dues. No costs.

29.01.2024

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To

1.The I Additional Sub Judge, Cuddalore

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3. The learned District Munsif, Cuddalore

V.LAKSHMINARAYANAN.J,

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