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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2024

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.1079 and 1080 of 2017
and
W.M.P.Nos.1048 and 1049 of 2017

1.M.Kamatchi devi ... Petitioner in W.P.No.1079 of 2017

2.P.Moorthy ... Petitioner in W.P.No.1080 of 2017

Vs.

1.The Principal Secretary,
Municipal Corporation and Water Supply Department,
Secretariat,
Chennai – 9.

2.The Commissioner,
Municipal Corporation and Water Supply Department,
Chepauk,
Chennai – 5.

3.The Commissioner,
Coimbatore Corporation,
Kadaiveethi,
Coimbatore – 1.

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4.The Assistant Commissioner (East Zone),
Coimbatore Corporation,
Trichy Road,
Coimbatore – 5.

5.The Assistant Commissioner (Income),
Coimbatore Corporation,
Kadaiveethi,
Coimbatore – 1. ... Respondents in both W.Ps.

Prayer in W.P.No.1079 of 2017: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent "Final Notice" dated 17.03.2016 in assessment VLT No.37315391 in dated 2006-2007 I to 2012-2013 II, on the file of 4th respondent and quash the same and direct the 4th respondent to assess the property tax against the petitioner's land in accordance with law.

Prayer in W.P.No.1080 of 2017: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent "Final Notice" dated 17.03.2016 in assessment VLT No.37315392 in dated 2006-2007 I to 2012-2013 II and 37315393 in dated 2006-2007 I to 2012-2013 II, on the file of 4th respondent and quash the same and direct the 4th respondent to assess the property tax against the petitioner's land in accordance with law.

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For Petitioners : Mr.B.Nedunchezhiyan
(in both W.Ps)

For Respondents : No Appearance
(in both W.Ps) for R1 and R2

Mr.K.Magesh
Standing Counsel
for R3 to R5

COMMON ORDER

The petitioners are before this Court against the impugned Final Notice both dated 17.03.2016 calling upon the petitioners to pay the arrears of property tax (vacant land tax) for a sum of Rs.4,11,852/- for the period starting from first half of 2006-2007 to 2012-2013 respectively.

2. These Writ Petitions were inspired from Section 168 of the Coimbatore City Municipal Corporation Act, 1981. It is the specific case of the impugned notice has been issued beyond the period of limitation prescribed under Section 168 of the aforesaid Act, and therefore the demand is without jurisdiction.

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3. On the other hand, the learned Standing Counsel for the respondent Nos.3 to 5 has drawn attention to Paragraph No.5 of the counter affidavit which reads as under:-

> *"5. It is submitted that during the year 2012, the petitioner herein had submitted an application before this respondent by disclosing that he had purchased the 21 cents of lands in Sowripalayam Village, S.F. No.475 by document No.357/dt. 08.01.1993 and had requested to assess the said property to property tax by his letter in Ref. Nos.05624/12/A7 with an intent to put up building constructions in the same, since the property was situated within the Corporation area. After taking into consideration of such representations of the petitioner, the Corporation inspected the said property and finding that the same was vacant site and not agricultural lands assessed the properties to vacant land tax by calculating the same in accordance with the guidelines laid for the same with the help of the guideline values maintained by the Registrar's Office. The calculations were made as follows:-*
>
> *1 sq.ft. for the land during 2005 @ Rs.430/-*
> *1 sq.ft. for the land during 2007 @ Rs.553/-*
>
> *Accordingly, the total value for the property in the name of the petitioner was calculated for assessment number 37315392 and 37315393 as 436 Sqft. x 21 Cents 9156 Sqft. x Guideline Value Rs. 430 = Capital Value Rs.39,37,080/- x VLT Rate 1.125% = VLT Rs. 44,292/- from 01.04.2006 and from 01.04.2007, increased to 9156 Sqft. x Guideline Value Rs. 553 = Capital Value Rs.50,63,268/- x VLT Rate 1.125% = VLT Rs.56,962/- and from 01.10.2009, reduced to 9156 Sqft. x Re.0.60 = VLT*

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Rs.5,494/ as each assessment. The above said detail of assessment of Vacant Land Tax was duly intimated to the petitioner. After coming to know about the same and having knowledge about the same, the petitioner had not preferred any appeal against the said assessment order made by the Corporation and had accepted it. But on the other hand, had undertaken to pay the same at the earliest but was postponing the same on one pretext or the other. Due notices calling for payment were duly issued to the petitioner and in spite of the same, he did not come forward to pay the same and when the amount exceeded its limits, the Corporation was forced to issue the "Final Notice" dated 17.03.2016. Instead of paying the amount, the petitioner has rushed to this Hon'ble Court with false contentions to see that he is not paying the amount to the Corporation. In fact, there is no agricultural works being carried out by the petitioner in the above property and he has not produced any records to substantiate the same. Since the property of the petitioner is situated behind a shopping mall namely "Fun Mall', he had let out his vacant land for private 4 wheeler parking and is collecting charges for the same. He has conveniently concealed all the above facts and has filed the present Writ Petition before this Hon'ble Court with an illegal intent to see that the amounts due to the Corporation is not paid at all although he is earning by letting out the vacant land on lease for vehicle parking."

4. Having considered the arguments advanced by the learned counsel for the petitioner and the learned Standing Counsel for the respondent Nos.3 to 5, Court is of the view that there is no merits in the present writ petitions. The petitioners are bound to pay the property tax

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under the provisions of the Coimbatore City Municipal Corporation Act, 1981. The said Act now stands subsumed into the Tamil Nadu Urban Local Bodies Act, 1998 which came to force with effect from 30.04.2023. All that, the Court can to to the rescue of the petitioners is to give liberty to the petitioners to file a Statutory Appeal, although it is long after, the impugned Demand Notice and the Assessment Orders have been passed.

5. Under these circumstances, liberty is given to the petitioners to file an Appeal before the Appellate Authority under the provisions of the Tamil Nadu Urban Local Bodies Act, 1998 subject to the petitioners depositing the entire arrears of property tax i.e, due payable under the provisions of the Coimbatore City Municipal Corporation Act, 1981. Refund if any, will be subject to the final orders to be passed by the Appellate Authority under the aforesaid Act. The Appellate Authority shall entertain the appeal and dispose of the same on merits, if the appeal is filed with pre-deposit within a period of 30 days from the date of receipt of a copy of this order.

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6. These Writ Petitions stand disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

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Index:Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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C.SARAVANAN, J.

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