BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **20.03.2025**

CORAM:

THE HONOURABLE **MR.JUSTICE VIVEK KUMAR SINGH**

W.P.(MD)No.4129 of 2025
and
W.M.P.(MD)No.2978, 2980 & 2981 of 2025

R.Francis ... Petitioner

-vs-

The Commissioner,
Nagercoil Corporation,
Nagercoil. ... Respondent

PRAYER**:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned demand notice on the file of respondent dated 04-10-2024 and quash the same consequently directing the respondent to pass orders fixing the property tax for 989 sq. ft., in respect of Assessment No.150/030/901211 for the building in D.No.17/2 as per the approved plan and in accordance with the judgment in O.S.No.116 of 2005 on the file of I Additional District Munsif Court, Nagercoil.

For Petitioner : Mr.H.Arumugam

For Respondent : Mr.F.Deepak

ORDER

This writ petition has been filed challenging the impugned order passed by the respondent, dated 04.10.2024, demanding a sum of Rs.27,823/- for assessment of property tax.

2. The case of the petitioner is that the petitioner purchased the housing site in S.No.2531, measuring to an extent of 1717 sq.ft., situated at Nagercoil, AgastheeswaramTaluk, Kanyakumari District, under the registered sale deed dated 16.11.1992 and the petitioner obtained building plan approval for construction of the house with an extent of 989 sq.ft., and completed the construction in the year 1995 and the property tax was also assessed in the name of the petitioner. Even though construction was only to the extent of 989 sq.ft., the property tax demand was raised for 1500 sq.ft., erroneously. Therefore, the petitioner filed an appeal before the Tribunal on 13.03.1999.

3. The further case of the petitioner is that the respondent, without considering the said appeal, insisted for payment of property tax. Therefore, the petitioner filed a suit in OS No.116 of 2005 on the file of the I Additional District Munsif Court, Nagercoil for permanent injunction restraining the

respondent from collecting the assessment of property tax. The said suit was decreed on merits finding that the construction was only to the extent 989 sq.ft., and the assessment was wrong. As against which, the respondent filed an appeal with a condone delay petition and the same was also dismissed. Thereafter, no appeal has been filed by the respondent herein. Even though the respondent has admitted that the petitioner's house was constructed only to the extent of 989 sq.ft., after conduct of survey, the respondent issued the impugned notice demanding a sum of Rs.27,823/- for the very same extent of the assessment of the subject property. Hence, this writ petition came to be filed seeking the aforesaid relief.

4. The learned counsel appearing the respondent, by relying upon the counter affidavit filed by the respondent, submits that the learned I Additional District Munsif Court, Nagercoil, decreed the suit in OS No.116 of 2005 in favour of the petitioner, preventing the respondent to collect tax only for the particular period in the year 2004 and fixing arrears of tax is Rs.5575/-. The respondent, after conduct of survey, found that the constructed area of the petitioner's building is 991 sq.ft., and on consideration of the petitioner's representation seeking to fix new tax for his building in accordance with the judgment of the trial Court, the tax was fixed for the constructed area of the

petitioner's building only to the extent of 991 sq.fts., as per G.O.No.169 and 170, Municipal Administration and Water Supply Department, dated 02.09.1998.

5. However, as per the subsequent GOs, amendment was made and tax is also revised by 6% every year. However, for the petitioner's building, only the aforesaid GOs were implemented and the petitioner, in order to evade the payment of tax, also filed an Execution Petition for attachment of vehicle for implementing the judgment of the trial Court. Hence, he prayed for dismissal of this writ petition by considering all the above contentions.

6. Heard the learned counsel on either side and perused the materials placed before this Court.

7. As per the order of this Court dated 17.02.2025, the petitioner paid the admitted amount of Rs.18,345/- to the respondent corporation by way of demand draft.

8. In view of the above compliance and also considering the facts and circumstances of this case, the matter is remanded back to the respondent for

fresh consideration by considering the fact that the petitioner paid the admitted amount as aforesaid and the respondent is also directed to pass appropriate orders on its own merits and in accordance with law and also as per the applicable Government Orders, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the authorities shall not be influenced by the observations made by this Court.

9. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

20.03.2025

NCC : Yes/No
Index : Yes / No
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TO:-

The Commissioner,
Nagercoil Corporation,
Nagercoil.

VIVEK KUMAR SINGH, J.

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Order made in
W.P.(MD)No.4129 of 2025

Dated:
20.03.2025