



2024:KER:72486

W.P (C) No.22784/2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

MONDAY, THE 30TH DAY OF SEPTEMBER 2024 / 8TH ASWINA, 1946

WP(C) NO. 22784 OF 2024

PETITIONER/S:

FRANCISCAN SISTERS OF THE IMMACULATE HEART OF MARY,
32/1755, F I H GENERALATE, PATTATHANAM, KOLLAM DISTRICT
KERALA REPRESENTED BY IT'S SUPERIOR GENERAL REXIA MARY,
PIN - 691021

BY ADVS.
K.LATHA
JOMTON F. PAYANKAN
GAYATHRI NARENDRANATH
MEERA MENON
T.SUKESH ROY

RESPONDENT/S:

- 1 THE SECRETARY,
VADAKKEVILA ZONAL OFFICE, KOLLAM MUNICIPAL CORPORATION,
KOLLAM, KERALA, PIN - 691001
- 2 THE STATE OF KERALA REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF REVENUE, GOVERNMENT SECRETARIAT,
THIRUVANANATHAPURAM, PIN - 695001
- 3 THE VILLAGE OFFICER,
VADAKKEVILA VILLAGE OFFICE,
KOLLAM, KERALA, PIN - 691001

SMT. THUSHARA JAMES, SR. GOVT. PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30.09.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



J U D G M E N T

This writ petition has been filed challenging the demand notice for property tax under the provisions of the Kerala Municipalities Act, 1994 ('the 1994 Act') on the ground that the building in question is one exclusively used as residence for nuns belonging to the congregation of Franciscan Sisters of the Immaculate Heart of Mary convent. It is the case of the petitioner that the petitioner is exempted under the provisions of Section 12AA of the Income Tax Act, 1961 and that the provisions of Section 235 (1) of 1994 Act also entitles the petitioner to claim exemption from the payment of property tax.

2. The learned counsel for the petitioner also placed considerable reliance on the judgment of the Supreme Court in ***Government of Kerala and another v. Mother Superior, Adoration Convent; (2021) 5 SCC 602*** in support of the contention that where the main activity is exempt the building which is housing nuns should also be granted exemption from the payment of property tax.

3. The Standing Counsel appearing for the respondent Municipality refers to the statement filed in this case to contend that in terms of sub section (1) (a) of Section 235 of the 1994 Act, only places set apart for public worship or building used exclusively for public worship are entitled to



exemption for payment of property tax and the provisions of the Building Tax Act 1975 ('the 1975 Act') do not apply for the purpose of determination of the liability to pay property tax under the provisions of the 1994 Act and the fact that the petitioner has sought an exemption under the provisions of the 1975 Act cannot lead to a conclusion that the petitioner is also entitled to exemption from property tax. It is also pointed out that the Zonal Revenue Inspector of Vadakkevila, Kollam Municipal Corporation has carried out an inspection and submitted a report which shows that about 40 nuns and about 100 children were staying in the building in question and though there is a chapel for conducting prayers no other religious functions or the charitable activities are conducted in the building.

4. The learned Government Pleader also supports the contentions taken by the learned Standing Counsel appearing for the Municipality.

5. Having heard the learned counsel for the petitioner, learned Government Pleader and the learned Standing counsel for the Municipality, I am of the view that the petitioner is not entitled to any relief in this writ petition. Section 235 (1) (a) of the 1994 Act reads as follows:-

*“235. **Exemption.**— (1) The following buildings and lands shall be exempt from the property tax: (a) places set apart for public worship, and either actually so used or used for no other purpose;”*



It is clear from the statement filed by the respondent Municipality that the building in question cannot be treated as a place set apart for public worship. Existence of a chapel in the building cannot make the building itself a place intended for “public worship”. The principle laid down by the Supreme Court in *Mother Superior, Adoration Convent (supra)* cannot apply to the determination of the question as to whether the petitioner is liable to pay property tax under the 1994 Act. The principles in *Mother Superior, Adoration Convent (supra)* apply only to the provisions of the 1975 Act where the provisions for exemption are completely different from the provisions contained in the 1994 Act. Therefore, I find that the petitioner has not made out any case for grant of relief. Writ petition fails and it is accordingly dismissed.

Sd/-
GOPINATH P.
JUDGE

AMG



APPENDIX OF WP(C) 22784/2024

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE FORM 10AC DATED 23-09-2021
ISSUED BY THE INCOME TAX DEPARTMENT TO THE
PETITIONER
- Exhibit P2 TRUE COPY OF THE ORDER NO. VZ/R1/3315/22 DATED
11-10-2023 ISSUED BY THE FIRST RESPONDENT TO
THE PETITIONER
- Exhibit P2(a) TRUE COPY OF THE DEMAND NOTICE DATED 21-10-2023
ISSUED BY THE FIRST RESPONDENT TO THE
PETITIONER
- Exhibit P3 TRUE COPY OF THE REPLY DATED 06-10-2023 FILED
BY THE PETITIONER BEFORE THE FIRST RESPONDENT
AGAINST THE EXHIBIT P2 NOTICE
- Exhibit P4 TRUE COPY OF THE INTERIM STAY ORDER OF THE
HON'BLE HIGH COURT OF KERALA IN WP(C) NO. 28336
OF 2023 DATED 24 TH AUGUST 2023