

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

WRIT PETITION NOS: 8862 OF 2007 AND 16868 OF 2020

W.P.NO: 8862 OF 2007

Between:

Md. Aliuddin Wasi, S/o. late Md.Samiuddin Proprietor - Sona Traders, R/o.11-5-407, Red Hills, Hyderabad.

...PETITIONER

AND

A.P.Industrial Infrastructure Corporation Ltd., Industrial Area, Local Authority, Nacharam, I.D.A., Hyderabad rep. by its Commissioner.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondent in rejecting the Petitioners request for remission of Tax on the ground that there is no provision in A.P. Municipalities Act, 1965 for providing such a benefit though the Petitioners claim is within the meaning of Sec. 92(2) of A.P. Municipalities Act, 1965, as illegal, arbitrary and contrary of Sec. 92 of A.P. Municipalities Act, 1965 and further direct to consider the claim of the petitioner for remission of property tax in the light of Sec. 92 of A.P. Municipalities Act relating to the premises in Plot No.11/2, Road No.16, IDA Nacharam, Hyderabad.

I.A. NO: 1 OF 2007(WPMP. NO: 11341 OF 2007)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant

interim direction directing the Respondent not to take any coercive steps against the Petitioner in relation to the property in Plot No. 11/2, Road No.16, IDA Nacharam, Hyderabad, pending disposal of the above writ petition.

Counsel for the Petitioner: SRI C.RAGHU (NOT PRESENT)
**Counsel for the Respondent: ADDL. ADVOCATE GENERAL/
SRI L.PRABHAKAR REDDY, SC FOR TSIIC**

W.P.NO: 16868 OF 2020

Between:

Md. Aliuddin Wasi, S/o late M.d. Samiuddin, aged 62 years, Occ. Proprietor -
Sona Traders, R/o. 11-5-407, Red Hills, Hyderabad.

...PETITIONER

AND

Telangana State Industrial Infrastructure Corporation Ltd, Industrial Area,
Local Authority, Nacharam I.D.A Hyderabad, Rep. by its Commissioner.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the in action of the respondent in taking into consideration the representations that the petitioner has submitted dated 31.7.2020 and 10.8.2020 requesting for remission of the property tax in relation to the property Plot No.11/2, Road No.16, IALA, IDA Nacharam (PTI No. NAC06Z0421) and providing the benefit of GO.Rt.No.306, dated 28.7.2020 in payment of arrears of interest as illegal and arbitrary and further direct the respondent to consider the petitioners representations dated 31.7.2020 and 10.8.2020 in the light of GO.Rt.No.306, dated 28.7.2020 by taking into consideration petitioners request for remission of the property tax and taking into account the basic tax of Rs.16,908/- annually and calculating interest thereon duly giving credit to the amount of Rs.66,994/- deposited by the petitioner.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant interim direction directing the respondent to dispose of the representation dated 10.8.2020 submitted by the petitioner in relation to the remission of property tax in the light of the GO.Rt.No.306, dated 28.7.2020, pending disposal of the above writ petition.

Counsel for the Petitioner: SRI C.RAGHU

Counsel for the Respondent: SRI L.PRABHAKAR REDDY, SC FOR TSIIC

The Court made the following: COMMON ORDER

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J. SREENIVAS RAO**

WRIT PETITION Nos.8862 of 2007 and 16868 of 2020

COMMON ORDER: (per the Hon'ble the Chief Justice Alok Aradhe)

None for the petitioner.

Mr. Mohd. Imran Khan, learned Additional Advocate General and Mr. L. Prabhakar Reddy, learned Standing Counsel for Andhra Pradesh Industrial Infrastructure Corporation Limited appear for the respondent.

2. A common issue with regard to the validity of the action of the respondent in rejecting the claim of the petitioner seeking remission of the property tax is involved in both the Writ Petitions. For the facility of reference, facts in Writ Petition No.8862 of 2007 are being referred to.

3. The respondent is constituted under Section 389 B of the Andhra Pradesh Municipalities Act, 1965. Now, it is governed by the Telangana Municipalities Act, 2019 (hereinafter referred to as 'the 2019 Act').

4. Facts giving rise to filing of Writ Petition No.8862 of 2007 briefly stated are that one M/s.Divya Metallurgical Limited was allotted plot bearing No.11/2, Road No.16, IDA Nacharam, Hyderabad. The said company failed to pay the amount of loan to the erstwhile Andhra Pradesh State Financial Corporation. Thereupon, in exercise of powers under Section 29 of the Andhra Pradesh State Financial Corporation Act, 1951, the assets of the said unit including the aforesaid plot were auctioned in the year 1985. The petitioner participated in the auction and purchased the aforesaid open plot and building therein. The petitioner thereafter leased out the premises to one Smt. Sangeetha. However, it is the case of the petitioner that the aforesaid Sangeetha vacated the premises on 09.03.2003. Therefore, the petitioner submitted a claim to the respondent seeking remission of the amount of property tax. However, the aforesaid claim of the petitioner was rejected and notices dated 20.10.2004, 29.04.2005 and 26.10.2006 were issued to the petitioner by which the property tax was demanded from him. In the aforesaid factual background, the petitioner has filed this Writ Petition.

5. We have heard the learned Additional Advocate General and the learned Standing Counsel appearing for the respondent.

6. Section 95 of the 2019 Act deals with vacancy remission. The aforesaid provision reads as under:

“95. (1) When any building or land or any premises which has been vacant for more than three months is eligible for vacancy remission of 50% of the Property Tax for the vacancy period.

(2) For the purpose of sub-section (1),

(a) premises shall be deemed to be vacant only if they are unoccupied and unproductive of rent;

(b) premises used or intended to be used for the purposes of any industry which is seasonal in character shall not be deemed to be vacant merely on account of their being unoccupied and unproductive of rent during such period or periods of the half year in which seasonal operations are normally suspended.

(3) Every demand for remission under sub-section (1) shall be made during the half year in respect of which the remission is sought.

(4) (a) No demand for such remission shall be entertained unless the owner of the building, land or premises or his agent has previously thereto delivered notice to the Municipal Commissioner within one month of the vacancy during that half year;

(b) no demand for such remission shall be entertained in case of a person who is in arrears of property tax;

(c) notice of the vacancy has to be issued to Municipal Commissioner, for every half year of vacancy;

(d) the Property tax for the vacancy period shall be paid on or before the due date, the vacancy remissions sanctioned will be credited to the property as advance.”

7. Thus, it is evident that in order to claim the vacancy remission, the owner of the building or land or premises or shed has to inform the Municipal Corporation within one month of the vacancy during that half year. Thus, the aforesaid condition is a condition precedent which is required to be fulfilled before claiming the vacancy remission.

8. In the instant case, there is no material on record to show that the aforesaid requirement has been complied with by the petitioner. There is no notice issued on behalf of the petitioner to the respondent within one month from the date of vacancy. Therefore, the claim of the petitioner seeking remission from payment of property tax has rightly been rejected by the respondent.

9. It is pertinent to note that Section 101 of the 2019 Act provides for a revision. Section 101 of the 2019 Act reads as under:

“101. (1) Any person aggrieved by any tax fixed or assessed under this Act may file a revision petition before the Commissioner, within 60 days of notice. The Commissioner shall dispose of the revision petition within 30 days from the date of receipt of the revision petition: Revision petitions and appeals when and to whom to lie.

Provided that the Commissioner may condone the delay in filing the revision petition subject to the satisfaction of sufficient cause.

(2) An appeal shall lie to the Regional Director against any orders passed by the Commissioner under sub-section (1) within 30 days from the date of receipt of the order passed by the Commissioner:

Provided that the Regional Director may condone the delay in filing the appeal petition subject to the satisfaction of sufficient cause.”

10. In case the petitioner is aggrieved by the quantum of the amount demanded from him as property tax, he shall be entitled to file a revision. Needless to state that the amount deposited by the petitioner in compliance with the interim

order dated 26.04.2007 shall abide by the decision in revision petition which may be filed by the petitioner, if so advised.

11. Accordingly, the Writ Petitions are disposed of.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

Sd/- N. SRIHARI
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

- To
1. The Commissioner, T.S.Industrial Infrastructure Corporation Ltd., Industrial Area, Local Authority, Nacharam, I.D.A., Hyderabad.
 2. One CC to SRI C.RAGHU, Advocate [OPUC]
 3. One CC to SRI L.PRABHAKAR REDDY, SC FOR TSIC [OPUC]
 4. Two CD Copies

PSK.

MP



HIGH COURT

DATED:21/08/2024

COMMON ORDER

WP.Nos.8862 of 2007 AND 16868 OF 2020*



**DISPOSING OF THE WRIT PETITIONS
WITHOUT COSTS.**

⑥
27/09/24
K.K