

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.08.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.18259 of 2015

M/s. Arunachalapuram Rama Nadar
Kumarar Santhana Nadar Vaarisukal Nalasangam
Madathu Street, Majaraa Arunachalapuram,
Ariyanayagapuram Village,
Sankarankoil Taluk, Tirunelveli District,
rep. by its President, K.Gurusamy ...Petitioner

Vs.

1. The Commissioner,
Thiruvannamalai Municipality,
O/o. Thiruvannamalai Municipality,
Thiruvannamalai District.

2. R.Thirunavukkarasu

R-2impleaded as per order, dated 01.12.2015,
passed in M.P.No.1 of 2015, of this W.P.

3. S.Pichandi

R-3 impleaded as per order passed today
in M.P.No.2 of 2015, of this W.P. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the first respondent to present and realize the demand draft, bearing No.009288, dated 27.03.2015, made towards the property tax for the period 2015-2016, and issue a receipt thereon in the name of the petitioner.

For Petitioner : Mr.G.Jayachandran
For Respondent-1 : Mr.A.S.Thambuswamy,
Standing Counsel
and Mr.B.Anand

For Respondent-2 : Mr.K.Subbu Ranga Bharathi
For Respondent-3 : M/s.Kingsly Solomon

O R D E R

Heard Mr.G.Jayachandran, the learned counsel appearing for the petitioner, Mr.A.S.Thambuswamy, learned Standing Counsel for the first respondent-Municipality, Mr.K.Subbu Ranga Bharathi, learned counsel for second respondent and M/s.Kingsly Solomon, learned counsel appearing for the newly impleaded party, viz., the third respondent.

2. The controversy is with regard to the payment of property tax, in respect of a house property, bearing Door No.86, situate at Big Street, Thiruvannamalai Town, Thiruvannamalai District, comprised in T.S.No.1425/1, Ward No.1, Block No.33, measuring total extent of 4864 sq.ft., together with construction, consisting of a tiled house on the said property.

3. The petitioner claims themselves to be the President of a Nala Sangam, and takes care to the management of the property. The second respondent has been inducted as a tenant in the said property, against whom, eviction proceedings have been initiated before the learned Rent Controller, in which, he has raised objection denying title over the property, but, claims that his father is the original person, to be in charge of the administration of the Mutt, and certain other details, which need not be gone into for the disposal of the Writ Petition.

4. It is seen from the counter affidavit filed by the first respondent-Municipality, and the typed set of papers, filed along with the said counter affidavit that the property tax remittance stands in the name of Ariyanayagipuram Arunachalapuram Santhananadar Vagaiyara, and payment has been received by the first respondent-Municipality on 01.04.2014, for the period I/2014-2015 to II/2014-2015. The remittance of the property tax, totaling to a sum of Rs.1768/- is said to have been made by cash. The first respondent, by proceedings, dated 10.04.2015, called upon the parties to appear before for an enquiry. Subsequently, there was another notice, of the same date viz., 10.04.2015, addressed to the writ petitioner/Thiru. K.Gurusamy. The cheque sent by the writ petitioner has been

returned. The petitioner seeks for issuance of a writ of mandamus to direct the first respondent-Municipality to realise the demand draft, dated 27.03.2015, taken towards remittance of the property tax for the period 2015-16, and to issue receipt in the name of the petitioner.

5. After elaborately hearing the learned counsels appearing for the parties, and perusing the materials on record, it is seen that two groups of people are attempting to claim right over the premises, in which, it appears that there is a Religious Mutt. The writ petitioner claims to have succeeded before the Civil Court, by obtaining a judgment and decree in O.S.No.248 of 2001, on the file of the Additional District Munsif Court, Sankarankoil, declaring Mariappa Nadar and 83 others are alone the legal heirs of the Santhana Nadar. The respondent No.3, on the other hand, would contend that the Suit filed by the petitioner has been dismissed. However, these disputed questions of fact cannot be adjudicated in a Writ Petition, and admittedly, the first respondent-Municipality had called upon the parties to produce all the documents, and it appears that the petitioner has produced documents, and till date, no enquiry has been conducted and no orders have been passed. The allegation against the first respondent is that, she has compelled the petitioner to settle the matter with the third respondent.

6. In my view, attempt can be made by the parties to amicably resolve the dispute within family members and others, but, nobody can be compelled to enter into a settlement. Therefore, if there is no settlement possible, then, the first respondent, being a Statutory Authority, has to dispose of representation made by the petitioner, dated 15.04.2015, especially, when she has already called for documents and the same has already been produced.

7. In the light of the above, the Writ Petition is disposed of, by directing the first respondent to issue notice of enquiry to the petitioner as well as third respondent, hear them in person, and pass a reasoned orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sd

To

The Commissioner,
Thiruvannamalai Municipality,
O/o. Thiruvannamalai Municipality,
Thiruvannamalai District.

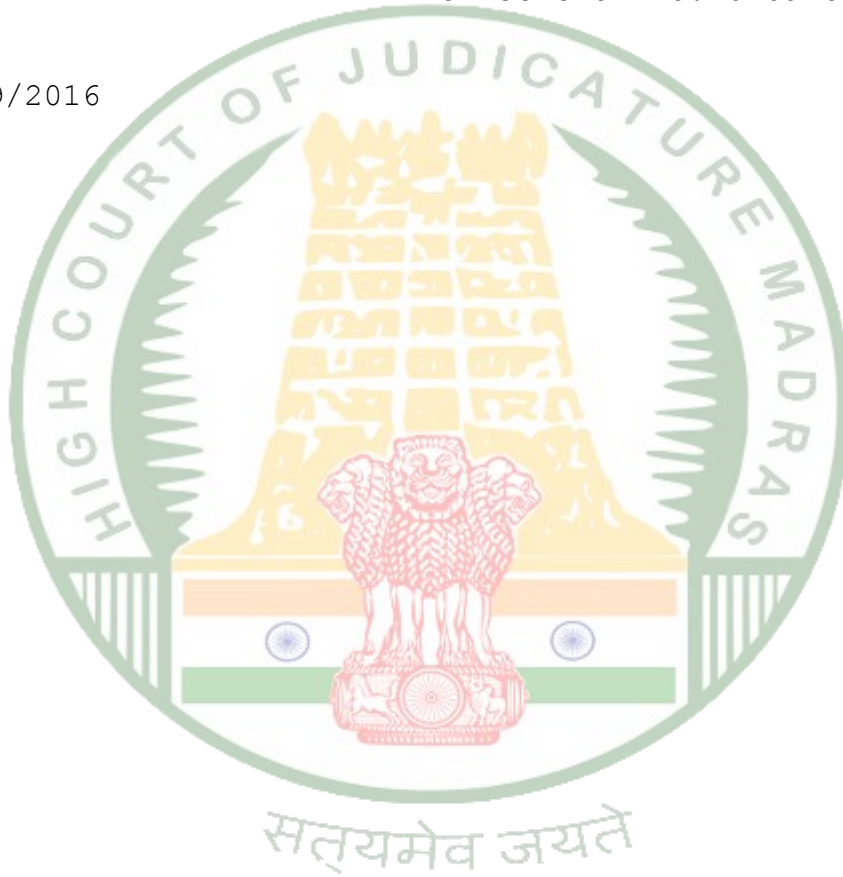
+1 CC to Mr. G. Jayachandran, Advocate, Sr.48842

+1 CC to M/s. Kingsly Solomon, Advocate, Sr.No.49194

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RJ (CO)

MD : 14/09/2016



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