

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.03.2016

Coram

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

Writ Petition No.28386 of 2015

&

M.P.No.1 of 2015

B.Sampathkumar

...Petitioner

Vs.

- 1 The Commissioner
corporation of Chennai Rippon Buildings
No.1131 EVR Periyar Salai Park Town Chennai -3
- 2 The Revenue Officer
Zone VI Corporation of Chennai No.5
Anderson Salai Ayanavaram Chennai-23
- 3 The Assistant Revenue Officer
Zone VI Corporation of Chennai No.5
Anderson Salai Ayanavaram Chennai-23 ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari to call for the records from the office of the 3rd respondent herein and to quash the impugned order passed by the 3rd respondent herein dated 26.8.2015 vide No.M.A.6th Na.Ka.No.R.1/2826/2015.

For Petitioner : Mr.Baskar

For Respondents : Mr.P.V.Selvakumar

O R D E R

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. Petitioner claims himself to be the sole surviving legal heir of S.M.Balakrishnan s/o late Marudhapillai stating that S.M.Balakrishnan does not have any issues and the petitioner is the sister's son of S.M.Balakrishnan. Accordingly, the petitioner filed a suit before the City Civil Court in O.S.No.3771 of 2014, praying for a

declaration to declare him as a legal heir of late S.M.Balakrishnan who died on 29.08.2013. The Tahsildar Mambalam Taluk and District Collector, Chennai were impleaded as defendants in the suit. The defendants were set ex-parte and the court passed a judgment dated 15.12.2014 by virtue of which the petitioner was declared as legal heir of S.M.Balakrishnan.

3. As on date, the said ex-parte decree has not been set aside or modified. In such circumstances, the 3rd respondent cannot take a stand it is an ex-parte decree, more particularly, when he is not a defendant in the suit. Therefore, to secure his interest as well as the interest of the Corporation of Chennai, the 3rd respondent is directed to obtain an indemnity bond from the petitioner wherein the petitioner should undertake and indemnify the Corporation of Chennai that in the event of any claim made by any third party and by referring to the said decree in O.S.No.3771 of 2014, the 3rd respondent is directed to pass appropriate orders on merits and in accordance with law.

4. With the above direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

1 The Commissioner
Corporation of Chennai Rippon Buildings
No.1131 EVR Periyar Salai Park Town Chennai -3

2 The Revenue Officer
Zone VI Corporation of Chennai No.5
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1 cc to M/s. Kumar & Baskar, Advocate, Sr. 16726

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SVI (CO)

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