IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.13824 of 2012
and M.P.No.1 of 2012

Murugasamy ... Petitioner

Vs.

1. The Commissioner,
   Corporation of Tirupur,
   Tirupur.

2. Govindaraj ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records on the file of first respondent herein in Na.Ka.No.A1/7/2012/IV, dated 15.3.2012 and quash the same and direct the first respondent herein to grant renewal of the building permission to the writ petitioner.

For Petitioner : Mr.C.R.Prasanan

For Respondents : Mr.P.Shanthi for R1
Mr.B.Neduncheziyan for R2

ORDER

Heard Mr.C.R.Prasanan, learned counsel for the petitioner and Ms.P.Shanthi, learned counsel appearing for the first respondent and Mr.B.Neduncheziyan, learned counsel for the second respondent.

2. The petitioner is a physically challenged person, having been born deaf and dumb. It appears that he is running a school for the children, who are born deaf and dumb and this school is run in a land, which according to the petitioner, belonged to their family and his parents had orally gifted the property to him in the year 1997. The petitioner claims to have demolished the existing building and reconstructed the school building in 2002 and there are about 300 children studying in the school, which has got standards 1 to 10. The petitioner is stated to have granted temporary recognition by the concerned authorities to run the school.

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3. All was well till the father was alive and after his demise, there arose a dispute between the petitioner and his sister, Mrs.Lakshmi, the wife of the second respondent herein. This dispute was on account of the fact that Mrs.Lakshmi claimed right over the property stating that her mother had executed a gift settlement deed in her favour. The said Mrs.Lakshmi in turn has executed a Sale Deed in favour of her husband in respect of the property, which was settled in her favour.

4. The petitioner has filed a suit in O.S.No.448 of 2009 before the Sub-Court, Tiruppur, to declare the Sale Deed as null and void and not binding on him and for a decree of permanent injunction restraining his sister Tmt.Lakshmi and her husband, the second respondent herein, from interfering with his rights over the property. The petitioner's sister has in turn filed another suit in O.S.No.414 of 2009, seeking delivery of possession. Both the suits are pending before the civil Court.

5. In this writ petition, the petitioner challenges an order passed by the first respondent Corporation, cancelling the property tax assessment made in the name of the petitioner. It is not in dispute that prior to 2011, the property was within the jurisdiction of Murugampalayam Panchayat. The property i.e., the land and building was assessed to property tax in the name of the petitioner. The petitioner has been able to produce documents to show that from the year 2005 onwards the property has been assessed to tax in his name and he has been paying taxes. Apart from that, the petitioner has also been assessed to water tax and he has produced receipts to show that he is also paying water tax and water charges.In 2011, the area was annexed to the jurisdiction of the Tiruppur Corporation and this is where the problem started.

6. It appears that the second respondent lodged a complaint with the officials stating that the property tax assessment in the name of the petitioner is illegal. Certain proceedings were initiated without notice to the petitioner, which is ultimately resulted in the impugned order.

7. On a perusal of the impugned order it is evidently clear that it has been passed based on certain reports and documents, which were all submitted without notice to the petitioner and without conducting any enquiry. That apart, the Commissioner of the Corporation has no jurisdiction to enquire into the title to the property nor can he rely upon any observation made by the Revenue officials, whose reports have been referred to in the impugned order. Thus, in my view, the impugned order has been passed grossly in excess of the jurisdiction of the first respondent, apart from being in

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violation of the principles of natural justice.As the parties, namely,the petitioner,his sister,Mrs.Lakshmi,and brother-in-law, the second respondent herein,are all before the civil Court over the property in question,the Corporation of Tiruppur should not, at this juncture, take any decision, which may affect the rights of the parties in the pending civil litigation. This is more so because neither the Corporation officials nor the Revenue officials can decide title to the property. Therefore, they have to await the decision in the civil suits filed by both parties.

8. In the light of the above, the writ petition is allowed.The impugned order is set aside and the first respondent is directed to restore the property tax assessment in the name of the petitioner and collect property tax from the petitioner. However, it is made clear that merely because the property tax assessment stands in the name of the petitioner and that he has been paying the taxes, will not confer on the petitioner any special rights or privileges and the petitioner will not be entitled to use this document to support his case before the civil Court. Ultimately, the first respondent Corporation shall await the decree to be passed by the civil Court and abide by the same.Furthermore,the petitioner should not take advantage of the fact that the property tax assessment has been restored in his favour and he should not create any encumbrance over the property and the property shall be preserved as it exists as on date. The first respondent is directed to comply with the above direction within a period of six weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

9. It is submitted that both the suits are pending before the Sub-Court, Tiruppur.

10. This Court has no doubt in its mind that the Sub-Court, Tiruppur, while dealing with the matter, would definitely take into consideration the relationship of the parties and that the petitioner is a physically challenged person, who is running school for young children, who are like him i.e. deaf and dumb and endeavour to refer the matter for mediation to genuinely explore the possibility of settlement.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msk

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To

1. The Commissioner,
   Corporation of Tirupur,
   Tirupur.

2. The Sub Judge,
   Tiruppur.

+1cc to Mr.C.R.Prasanan, Advocate, S.R.No.37303

W.P.No.13824 of 2012

RSI(CO)
CA(19/07/2016)

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