

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.2908 of 2012

1. A.S.Palanisamy (Died)
2. Muthammal w/o A.S. Palanisamy
3. Sivanandam S/o A.S.Palanisamy
4. Sivakumar s/o A.S.Palanisamy
5. Chandrasekar s/o A.S.Palanisamy
6. Sivagami d/o A.S.Palanisamy

Petitioners 2 to 6 are substituted in the place of deceased / 1st petitioner, A.S.Palanisamy, as per order of this Court dated 27.04.2016 in WMP No.13831 of 2016 in W.P.No.2908 of 2012 ...Petitioners

Vs

1. The District Collector,
Tiruppur District,
Tiruppur
2. The President,
Kuppandapalayam Panchayat,
Kuppandapalayam,
Avinashi Taluk,
Tiruppur District

3. Sivaraj ...Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent to levy house tax in the name of the petitioners for the houses in D.No.1/109 and 1/111 as per Section 172 of the Tamilnadu Panchayat Act, 1994.

For Petitioner : No Appearance

For Respondents :Mr.R.Lakshmi Narayan
Additional Government Pleader for R1

O R D E R

None appears for the petitioners. Heard the learned Additional Government Pleader appearing for the 1st respondent. Though the name of the respondents 2 and 3 are printed in the cause list, they have not entered appearance through counsel.

2. The petitioner seeks for a direction upon the 2nd respondent to levy house tax in the name of the petitioner in respect of the properties bearing Door Nos.1/109 and 1/111 in terms of Section 172 of the Tamilnadu Panchayats Act, 1994.

3. The petitioner claims ownership over the property pursuant to a Deed of Partition dated 13.11.1911 registered as document no.3566 on the file of the Sub-Registrar, Avinashi and Sale Deed dated 03.06.1912. In the affidavit filed in support of the Writ Petition, the petitioner would admit that the 3rd respondent claims a right over the property and patta stood in the name of the 3rd respondent. This was challenged by the petitioner, but, however, the Tahsildar, Avinashi rejected the petitioner's plea and he filed an appeal before the Revenue Divisional Officer, Tiruppur, who allowed his application by an order dated 25.10.2008. The petitioner would state that inspite of First Appellate Authority having passed an order in his favour, the 2nd respondent is refusing to assess the property to tax in his name.

4. In paragraph No.7 of the affidavit, the petitioner admits that he has come to know that the 3rd respondent has preferred an appeal before the District Revenue Officer against the order passed by the Revenue Divisional Officer dated 25.10.2008. However, it is stated that till date, no notice has been received by the petitioner from the office of the District Revenue Officer.

5. In the light of the above disputed question of facts, no positive direction could be issued as sought for by the petitioner to assess the property to tax in the name of the petitioner (since deceased), substituted by his legal heirs. However, since the representation is pending, there shall be a direction to the 2nd respondent to communicate in writing an order clearly mentioning as to why the petitioners' application cannot be considered and if the 2nd respondent relies upon any documents, the same should also be referred to in the reply and copies thereof should be enclosed along with reply to be given by the 2nd respondent.

This writ petition is disposed of by directing the 2nd respondent to comply the above said direction within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The District Collector,
Tiruppur District,
Tiruppur
2. The President,
Kuppandapalayam Panchayat,
Kuppandapalayam,
Avinashi Taluk,
Tiruppur District

+1 cc to Mr.M.Guruprasad, Advocate,sr.42323.

gr(co)
krd 4/8

W.P.No.2908 of 2012



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