IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.3453 of 2011 & M.P.No.2 of 2011

Mrs.Fathima Beevi ... Petitioner

-Vs-

1. The Commissioner,
   Corporation of Chennai,
   Ripon Buildings, Chennai-3.

2. The Revenue Officer,
   Corporation of Chennai,
   Ripon Buildings, Chennai-3.

3. S.M.Jaffer Mohideen (Died)
4. Zahara Banu
5. Taj Begum
6. Sayeedha Banu,
7. Subhani
   (RR4 to 7 are substituted as LRS of deceased R-3: S.M.Jaffer Mohideen, as per order dated 10.08.2015 in M.P.No.1 of 2015 in W.P.No.3453 of 2011) ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records of the respondents 1 and 2 in Name Transfer No.07/1261/7 dated 21.Nov.07 effecting transfer of ownership of the petitioners property at No.83/37, Iyyasamy Street, Pudupet, Chennai-600 002, from the name of Mohammed Ibrahim to Katheeja Bi (informed through their proceedings No.Ma.Su.7/Va.thu.Na.Ka.No.R5/1775/2010 dated 04.11.2010) quash the same and direct the respondents 1 and 2 to receive property tax of the said property No.83/37, Iyyasamy Street, Pudupet, Chennai-600 002 from the petitioner.

For Petitioner : Mr.N.Ganeshmurthy

For Respondents : Mr.T.C.Gopalakrishnan for RR 1 & 2
: Mr.C.T.Mohan for RR3 to R7

O R D E R

The petitioner, Mrs.Fathima Beevi is before this Court challenging the order passed by respondents 2 and 3 dated 21.11.2007, effecting transfer of the property tax assessment in the name of the third respondent's wife-Khateeja Beevi. After her demise, the third respondent-S.M.Jaffer Mohideen, who is her legal heir, is also no more and respondents 4 to 7 are the legal heirs. The property tax assessment stands as on date is in the name of late Khateeja Beevi. The petitioner's case is that for several decades, she has been in possession of the property and rightfully the Corporation of Chennai had assessed the property to tax in her name. However, all of sudden, by the impugned proceedings, tax assessment has been changed to the name of Khateeja Beevi, which is illegal.

2.This Court is not inclined to go into the disputed question as to who is the rightful owner of the property, as the lis is pending before this Court in a Second Appeal. The undisputed facts being that, the third respondent has filed a petition for eviction of the petitioner herein before the Court of Small Causes, Chennai in RCOP No.3692 of 1987, which was dismissed by the learned Rent Controller, holding that there is no "Landlord and tenant relationship between the petitioner and the third respondent".

3.Aggrieved by the same, the third respondent had preferred an appeal in RCA No.463 of 1997 before the Rent Control Appellate Authority. However, there is a delay of 150 days in filing the appeal and the learned appellate authority being a persona designata cannot condone the delay of 150 days, as he has no power. As against the said order, the third respondent filed CRP (NPD) Nos.1430 to 1432 of 2002 and 830 of 2003. These revision petitions were allowed by orders dated 05.01.2011 and 02.08.2013. As against which, the petitioner has filed appeal to Hon'ble Supreme Court, which appears to have been dismissed. As of now, the rent control appeal in RCA No.463 of 1997 is pending before the Rent Control Appellate Authority.



4.In the interregnum, the petitioner has filed a suit in O.S.No.7312 of 1987 praying for a decree of permanent injunction. The suit came to be dismissed. As against the said order, the petitioner has preferred first appeal in A.S.No.30 of 1991. The said appeal is stated to be dismissed on a technical ground. Aggrieved over the same, the petitioner has preferred second appeal in S.A.No.1453 of 2007, which is pending before this Court. Though civil proceedings, which have been initiated by the petitioner, is only with regard to grant of decree of injunction, the civil court can incidentally go into the question of title to the property and it is stated that the trial court has done such exercise. Since the property tax assessment now stands in the name of Kateeja Beevi, it shall continue to be in the said name and the respondent-Corporation shall not effect any name transfer in their records and the legal heirs of Kateeja Beevi viz., respondents 4 to 7 are not entitled to alienate the property and await the decision in S.A.No.1453 of 2007.

5.The learned counsel for respondents 3 to 7 submitted that his clients are willing to give an undertaking that they will not alienate the property. It is made clear that this Court has not gone into the question of title or the inter se dispute between the petitioner and respondents 3 to 7 and all issues are left open to both parties to agitate the same before the appropriate forum.

Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
   Corporation of Chennai,
   Ripon Buildings, Chennai-3.

2. The Revenue Officer,
   Corporation of Chennai,
   Ripon Buildings, Chennai-3.

+2cc to Mr.N.Ganeshmurthy, Advocate, S.R.No.72005
+1cc to Mr.C.T.Mohan, Advocate, S.R.No.72184
+1cc to Mr.T.C.Gopalakrishnan, Advocate, S.R.No.71946

W.P.No.3453 of 2011

CS/26/10/17