



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2017

CORAM

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.2495 of 2017

1. K.Mangayee
2. K.Pandi
3. K.Muthuraman
4. K.Pothumponnu
5. K.Karthik

... Petitioners

-vs-

1. The Commissioner,
Sivagangai Municipality,
Sivagangai Town,
Sivagangai District.
2. C.Kathaiah
3. C.Ganesan
4. C.Renganathan

... Respondents

(R2 to R4 impleaded by order dated 01.08.2017)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records from the office of the respondent, pertaining to the order dated 17.10.2014 in Na.Ka.No.2769/14A1, quash the same and further direct the respondent by way of Mandamus to enter the names of the petitioners by removing wrongly entered persons' names in the Town Survey Register of Sivagangai Municipality, pertaining to the Vacant Site Land to an extent of 1 acre and 50 cents situated in Survey No.38/4 in Thiralaudappu Village, Kanchirangal Hamlet in Payyur Pillaivayal Group in Ward No.4, now T.S.No.22, Survey Ward-B, Block-2, Sivagangai Town, Sivagangai District and to issue Vacant Site Tax Receipt in the name of the petitioners.

For Petitioners	:	Mr.P.Paranthaman
For R1	:	Mr.P.Mahendran
For R2 to R4	:	No Appearance

O R D E R

This writ petition has been filed, seeking to quash the impugned order dated 17.10.2014 made in Na.Ka.No.2769/14/A1, in which it was held that different names are entered in the Town Survey Register of Sivagangai Municipality. The petitioners also



sought a consequential direction to enter their names in lieu of the names wrongly entered and also to issue Vacant Site Tax Receipt in the name of the petitioners.

2. The case of the petitioners in nutshell is as follows:

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i) The husband of the 1st petitioner (father of the petitioners 2 to 4), namely, V.Kamatchi inherited the property in question from his father K.Vellakutty and after his demise, it devolved upon the said Kamatchi without any change in the revenue records and thereafter upon the petitioners / legalheirs. The petitioners filed a suit in O.S.No.78 of 2013 for declaration and permanent injunction against the Government and succeeded.

ii) The petitioners filed an application on 22.08.2014 before the 1st respondent to issue receipt for Vacant Site Tax, for which, the 1st respondent has passed the impugned order stating that though the property belongs to the petitioners as per the Registered Will dated 05.09.2011, in the Town Survey Register, different names find place.

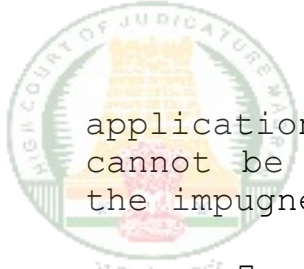
iii) The 1st respondent, knowing fully well that the civil suit decree is in favour of the petitioners and the 1st respondent is the 5th defendant in the suit, has erroneously held that vacant site tax cannot be levied in the name of the petitioners.

3. The learned counsel for the petitioners would submit that the impugned order has been passed in a hasty manner, inasmuch the petitioners were directed to produce certain documents on the one hand and the request of the petitioners were declined in the same order on the other hand. Therefore, the impugned order is illegal and un-sustainable.

4. The learned counsel for the 1st respondent would contend that pursuant to existence of different names for the very same property, the 1st respondent has passed the impugned order and the same does not warrant any interference whatsoever by this Court.

5. Heard the learned counsel for the petitioners and the learned Standing Counsel for R1. Despite issuance of private notice and printing of their names in the cause list, there is no representation on behalf of the respondents 2 to 4.

6. A perusal of the impugned order would amply prove the fact that at the first instance, the petitioners were asked to apply afresh for vacant site tax along with necessary documents in support of their claim. But, in the concluding paragraph of the very same impugned order, it has been straightaway held that the request of the petitioners and therefore, surprisingly, it is not known as to why the petitioners were directed to file afresh



application in the initial lines, which act of the 1st respondent cannot be countenanced at any cost. Hence, on this sole ground, the impugned order is liable to be set aside.

7. In the result, this petition is allowed. The impugned order dated 17.10.2014 is set aside and the matter is remanded back to the 1st respondent for passing appropriate orders after causing due notice to all the parties. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

+1cc to Mr.P.Paranthaman, Advocate Sr.No.80582

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VB/KK/SAR1/10/10/2017/3P/2C

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