BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.2591 of 2017

T.Sheik Sulaiman ... Petitioner

Vs.

The Commissioner,
Sivakasi Municipality,
Sivakasi,
Virudhunagar District. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the respondent in his proceedings in Tho.Mu.51/T.R./404/2016/A1, dated 24.11.2016 and quash the same and consequently, direct the respondent to transfer the House Tax Assessment in the name of the petitioner for his property situated in old Nos.32-C and 32-D; New Door Nos.154 and 154/1, Seethakathi Middle Street, Sivakasi, having House Tax Nos.15802 and 15985 within the stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Rajamohan

For Respondent : Mr.N.Dilip Kumar

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ORDER

This writ petition has been filed seeking a writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the respondent in his proceedings in Tho.Mu.51/T.R./404/2016/A1, dated 24.11.2016 and quash the same and consequently, direct the respondent to transfer the House Tax Assessment in the name of the petitioner for his property situated in old Nos.32-C and 32-D; New Door Nos.154 and 154/1, Seethakathi Middle Street, Sivakasi, having House Tax Nos.15802 and 15985 within the stipulated time that may be fixed by this Court.

2. Mr.N.Dilip Kumar, learned Counsel takes notice for the respondent.

3. By consent, the writ petition itself is taken up for final disposal.

4. Facts leading to the filing of this writ petition, are as follows:

4.1. Originally, the house property bearing Door Nos.154 and 154/1, Seethakathi Middle Street, in Ward No.E, Block No.11, situated in T.S.No.1 of Sivakasi Municipality, belongs to one L.G.Mariammal, by virtue of sale deed No.970/1986. Since the only son of the said Mariammal died intestate on 30.03.1989, she executed a registered Will in favour of her son-in-law, namely, A.Muthuraj on 25.03.1996, vide Document No.24/1996, on the file of the Sub Registrar, Rajapalayam. Thereafter, the said Muthuraj executed a Settlement Deed in favour of his wife, namely, Kala, on 03.07.2013 vide Settlement Deed No.6169/2013.

4.2. Meanwhile, the said Mariammal also executed an unregistered Will by bequeathing the property in question in favour of her step-daughter, Malliga on 04.03.2004. The petitioner purchased the said property from the said Malliga on 08.07.2015 vide Document No.5688/13. Later, the petitioner came to know about the registered Will executed by the said Mariammal in favour of the said Muthuraj. Subsequently, the petitioner purchased the property from the said Muthuraj and Kala for a valid sale consideration on 21.12.2015 vide registered sale deed No.8910/2015, in which, Malliga and her legal heirs stood as witnesses.

4.3. The original House Tax receipts stood in the name of the erstwhile owner, namely, Mariammal and hence, on 23.09.2016, he sent a representation to the respondent seeking transfer of House Tax receipts in his name. Finding no action, the petitioner filed a writ petition in W.P(MD)No.19721 of 2016 before this Court and the same is pending. During the pendency of the said writ petition, the respondent passed the impugned order dated 24.11.2016, in and by which, the respondent found that the claim of the petitioner was based on an unregistered sale deed.

4.4. Aggrieved thereby, the present writ petition is filed.

5. The learned Counsel for the petitioner submits that the respondent has passed the impugned order without any application of mind to the documents filed by the petitioner in support of his claim and the petitioner sought transfer of house tax receipts in his name only based on a registered sale deed dated 21.12.2015 and thus, the impugned order is vitiated on that ground alone and seeks for setting aside the same.

6. Whereas the learned Counsel for the respondent fairly concedes that since the document produced by the petitioner is a

registered sale deed, the impugned order passed by the respondent deserves to be set aside.

7. I have considered the rival submissions and perused the materials available on record.

8. On perusal of the typed set of papers filed by the petitioner, this Court, *prima facie*, is of the view that the rejection of the claim of the petitioner for effecting change of name in the House Tax receipts on the ground that the said claim was made on an unregistered sale deed, is untenable and it would clearly exhibit the non-application of mind on the part of the respondent while passing the impugned order and thus, it needs to be set aside on that ground alone.

9. Therefore, the impugned order passed by the respondent in his proceedings in Tho.Mu.51/T.R./404/2016/A1, dated 24.11.2016 stands quashed and the matter is remitted to the respondent for fresh consideration. Accordingly, the respondent shall consider the claim of the petitioner in the light of the documents produced by him and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner as well as the interested parties, if any, without a period of six weeks from the date of receipt of a copy of this order.

10. In the result, this writ petition is allowed as above. No costs.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

+1cc to Mr.N.Dilip Kumar, Advocate Sr.No.77019
+1cc to Mr.R.Rajamohan, Advocate Sr.No.76936

RSB

VB/SV/MMS/SAR3/19/09/2017/3P/3C

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