

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.10.2018
C O R A M
THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Writ Petition Nos.2164 & M.P.No.1 of 2012
and
W.P.No.16652 of 2012

M.Murugesan

... Petitioner in
both Writ Petitions

Vs

The Executive Officer,
Arasiramani Town Panchayat,
Kullampatti post, Sangagiri taluk,
Salem District

... Respondent in
both Writ Petitions

Prayer in W.P.No.2164 of 2012 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in Na.Ka.No.302/2011 (A2) dated 28.11.2011 and quash the same and consequently direct the respondent to assess property tax to the petitioner's house in S.F.No.61/1N.

Prayer in W.P.No.16652 of 2012 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in Na.Ka.No.172/2012 dated 16.05.2012 and quash the same and consequently direct the respondent to provide drinking water connection to the petitioner's house in S.F.No.61/1N.

For Petitioner in
both Writ Petitions : Mr.A.S.Prabu

For Respondent in
both Writ Petitions : Mr.R.A.S.Senthilvel,
Government Advocate

C O M M O N O R D E R

Heard Mr.A.S.Prabu, learned counsel for the petitioner and Mr.R.A.S.Senthilvel, learned Government Advocate for the respondent and perused the materials available on record.

2. The petitioner has come forward with these writ

petitions challenging the rejection of the petitioner's request for assessment of property tax to his house constructed in S.F.No.61/1N of Arasiramani Village, Salem District, and for providing water connection.

3. The case of the petitioner is that the property in Survey No.62/1N and 62/1F was the self occupied property of his grandfather Marappa Gounder and during his life time, he bequeathed the property in favour of the petitioner and his cousin brothers through a registered Will dated 20.03.1989. After his demise, the beneficiaries have partitioned the property and they have been in separate possession and enjoyment of the properties, by constructing a separate house. The further case of the petitioner is that his two cousin brothers have obtained separate patta and their properties have been assessed by the respondent Panchayat and they have also been provided with electricity service connection, but the request of the petitioner for the assessment of property tax and providing water connection was rejected mainly on the ground of pendency of the suit O.S.No.144 of 2001 before the District Munsif Court, Sangagiri.

4. The learned counsel for the petitioner would submit that non providing of water connection violates Article 21 of the Constitution of India and mere pendency of the suit filed by his father cannot be a ground for rejecting the request of the petitioner and impugned orders have been passed without providing an opportunity to petitioner, which is in violation of the principles of natural justice. The learned counsel further submitted that the father of the petitioner has no objection for providing water connection and assessment of property tax in favour of the petitioner. However, even then, the respondent has not responded the request of the petitioner in a proper perspective.

5. The learned Standing Counsel for the respondent would submit that even though the suit was filed in the year 2001, the same is pending at the stage of trial and unless the rights of the parties have been decided by the Competent Civil Court, the respondent cannot consider the case of the petitioner.

6. A perusal of the impugned orders would show that the claim of the petitioner came to be rejected on the only ground that the pendency of the suit in O.S.No.144 of 2001. As rightly contended by the learned counsel for the petitioner before rejecting the application of the petitioner, no opportunity was given, hence on the ground of violation of principles of natural justice, the orders impugned in these Writ Petitions are liable to be set aside and accordingly set aside and the matter is remanded back to the respondent, who shall consider the claim of

the petitioner and pass orders afresh in accordance with law, after providing opportunity to all necessary parties within a period of four weeks from the date of receipt of a copy of this order.

7. With the above observations, these Writ Petitions are allowed. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

gsi/rns.

To

1.The Executive Officer,
Arasiramani Town Panchayat,
Kullampatti post, Sangagiri taluk,
Salem District.

+2cc to Mr.A.S.Prabu, Advocate, S.R.No. 69604

+1cc to Mr.RAS.Senthilvel, Advocate, S.R.No. 69535

Writ Petition Nos.2164 & M.P.No.1 of 2012
and
W.P.No.16652 of 2012

CA (CO)
GN (30/10/2018)

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