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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17651 of 2011
and M.P.No.1 of 2011

M. Md, Ali Kirmani @ Mohamed Ali ... Petitioner

Vs.

1. The District Collector,
Greater Chennai, Chennai - 1.
2. The Tahsildhar,
Fort-Tondiarpet Taluk,
Periamet, Near Nehru Stadium,
Chennai - 600 003.
3. The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai - 600 003.
4. The Tamil Nadu Wakf Board,
Rep. by its Secretary, No.1,
Jaffer Sarang Nagar,
Vallal Seethakathi Street,
First Line Beach Road, Chennai - 600 001.
5. The Sub-Registrar,
1st Line Beach Road, North-Madras,
Chennai - 600 001.
6. K.G.A.Kirmani
7. K. Razak Ali
8. Fazilath Fathima Begum
9. Abdul Rahaman
10. K.Palaniappan
11. Anshar Ali ... Respondents

PRAYER: Writ Petition has been filed under Articles 226 of the Constitution of India for the issuance of Writ of Mandamus to direct the respondents 1 to 3 and 5 not to



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entertain any further change of patta, mutation of tax entries and any registration in pursuant to the sale deed dated 11.06.2008 registered as document No.327/2008, SRO, First Line Beach, North Madras, Chennai, in respect of the Private Wakf of AZADARI - IMAM HUSSAIN ALIHISSALAM, bearing present Door No.45 (Old No.73, 1/74, New No.21), Sembudoss Street, Muthilapet, George Town, Chennai - 600 001 and consequently direct the 4th respondent to initiate appropriate action against the respondents 6, 7 and 9 to 11.

For Petitioner : M/s.R.Thanjan
For 1st & 2nd Respondents : Mr.R.S.Selvan
For 3rd Respondent : Mr.K.Soundara Rajan
For 4th Respondent : Mr.L.S.M.Hasan Fizal
For 5th Respondent : Mr.P.P.Purushothaman
(GA)
For 6th to 11th Respondents : No appearance
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O R D E R

The relief sought for in this Writ Petition is for a direction to direct the respondents 1 to 3 and 5 not to entertain any further change of patta, mutation of tax entries and any registration in pursuant to the sale deed dated 11.06.2008 registered as document No.327/2008, SRO, First Line Beach, North Madras, Chennai, in respect of the Private Wakf of AZADARI - IMAM HUSSAIN ALIHISSALAM, bearing present Door No.45 (Old No.73, 1/74, New No.21), Sembudoss Street, Muthilapet, George Town, Chennai - 600 001 and consequently direct the 4th respondent to initiate appropriate action against the respondents 6, 7 and 9 to 11.

2. The grievance of the writ petitioner is that in respect of the property belongs to him certain illegal sale deeds have been executed. Thus, he filed a writ petition seeking direction to direct respondents 1 to 3 and 5 not to entertain any further change of patta, mutation of tax entries and any registration.

3. On a perusal of the entire affidavit filed in support of the writ petition, it is found that in respect of the property in question, certain civil disputes are



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raised between parties and civil litigations are also pending. When the civil rights of the parties are in dispute, the same cannot be resolved in the present Writ Petition under Article 226 of the Constitution of India. The complex facts and circumstances arising on account of the civil disputes can never be entertained in writ proceedings. All such disputes are to be resolved by filing the original documents and by adducing evidences before the competent civil Court of law. Thus, the very relief sought for is absolutely misconceived, and no such injunction can be granted in writ proceedings. Thus, the writ petitioner has to redress his grievances before the competent civil Court of law in respect of the issues raised in the writ petition.

4. However, it is brought to the notice of this Court that the writ petitioner has not paid the property tax arrears dues to the Chennai Corporation/ 3rd respondent on account of the pendency of the writ petition. Since the parties are not paying the property tax dues to the Corporation of Chennai, this Court is of the opinion that pendency of the civil disputes between parties is not a ground for evading payment of property tax. The property tax due to the Corporation of Chennai must be paid in time and in the event of non-payment, the Corporation of Chennai is empowered to initiate appropriate action in the manner known to law either against the owner or against the occupier of the premises. This being the principles to be followed, the writ petition deserves no further consideration.

5. Accordingly, the following orders are passed:-

(1) The relief sought for in this writ petition stands rejected.

(2) The assessor/owner/occupier is directed to pay the property tax arrears of Rs.89,382/- (Rupees Eighty nine thousand three hundred and eighty two only) within a period of two (2) weeks from the date of receipt of a copy of this order, and

(3) In the event of failure on the part of the persons concerned with regard to payment of property tax within a time stipulated above, The Corporation of Chennai, is directed to initiate all further action by following the procedures contemplated under law within a period of four (4) weeks thereafter.



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6. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

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5. The Sub-Registrar,
1st Line Beach Road, North-Madras,
Chennai - 600 001.

+1cc to Mr.K.Soundara Rajan , Advocate SR.No. 62762
+1 CC TO GOVERNMENT PLEADER SR.NO. 62672

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and M.P.No.1 of 2011

ASK(14/12/2018)