IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20..08..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.4997 of 2013
and
M.P.No.1 of 2013

R.Dhamotharan

... Petitioner

Versus

1.State of Tamil Nadu,
Rep. by its Secretary,
Department of Municipal Administration
and Water Supply,
Fort St. George,
Chennai 600009.

2.The Commissioner,
Tambaram Special Grade Municipality,
Tambaram,
Chennai 600045.

3.The Commissioner,
Commissionerate of Municipal Administration
6th Floor, Ezhilagam Annexe Building,
Chepauk,
Chennai 600005.

4.Mrs.Jayanthi Sekar *

[*This respondent was impleaded as per order dated 02.06.2014 made in M.P.3 of 2013]

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Maandamus calling for the records pertaining to the impugned proceedings in Tho.Mu.No. 51/460/09/A2 dated 26.11.2009 of the Second Respondent in regard to Tax Levy No.2057 and to quash the said proceedings and also to quash the building permission notice in Na.Ka.No. 8322.F1/2010 dated 21.01.2011 Building Permission Order No.95/11 dated 2.2.2011 Planning Permit No.86734 dt. 02.02.2011 issued by the 2nd respondent and for a further direction to the 2nd respondent to levy and collect the Property Tax and other charges in regard to Tax Levy No.2057 in the name of the petitioner in adherence to the Sine Qua Non mentioned in the aforementioned impugned order at last para that "Further if any suit litigation related to the above mentioned property is pending, the name change is not valid".

For Petitioner	:	Mr.S.Makesh
For Respondents	:	Mrs.S Ramaya Revathy Government Pleader for R1 and R3
		Mr.P.Srinivas, Standing Counsel for R2

ORDER

This writ petition has been filed challenging the order passed by the 2nd respondent Municipality transferring the Property Tax Assessment No.2057 in the name of the 4th respondent and for consequential reliefs.

2. According to the petitioner, he is the owner of the land in S.No.141/3(part), T.S.No.6, located at No.2, G.S.T.Road, Kadaperi, Tambaram, Chennai 600045. On 03.08.2007, he executed a general power of attorney in favour of one Mr.S.R.Sriramsekar to deal with the property in question. Now, the petitioner claims to have cancelled the above said power of attorney by a deed dated 03.10.2008. In the mean time, according to the petitioner, Mr.Sriramsekar executed a sale deed in favour of his wife, the 4th respondent herein on 24.09.2008. Pursuant to the sale deed, the 4th respondent got transferred the property tax assessment on her name. It is the said order now under challenge in this writ petition.

3. Heard both sides.

4. The learned counsel for the petitioner would submit that despite the cancellation of power of attorney, Mr.Sriramsekar had fraudulently executed a sale deed in favour of his wife. Challenging the same, the petitioner filed a suit in O.S.No.285 of 2008 and the same is pending on the file of the learned District Munsif, Tambaram. Pending suit, the 4th respondent had approached the 2nd respondent and got the property tax assessment transferred in her name.

5. The learned counsel for the 2nd respondent would oppose the writ petition contending that the 2nd respondent had acted in accordance with law and based on the 2nd respondent had acted in accordance with law and based on the sale deed only, he transferred the property tax assessment in the name of the 4th

respondent. The learned Government Advocate appearing for the respondents 1 and 3 would sail with the standing counsel for the 2nd respondent.

6. Admittedly, a sale deed was executed by the Power Agent of the petitioner in favour of the 4th respondent. The 4th respondent happens to be the wife of the agent of the petitioner. According to the petitioner, the sale in favour of the 4th respondent was based on the power of attorney and therefore, the sale is not valid in the eye of law. This is a disputed question of fact which could be decided only on evidence. Admittedly, the petitioner filed a suit and the same has pending before the learned District Munsif, Tambaram. It further appears that other suit filed by the 4th respondent is also pending. When the petitioner had approached the 2nd respondent with a request for transfer of property tax assessment in his name, by order dated 08.04.2010, the 2nd respondent rejected the representation of the petitioner referring to the civil suits filed by the respective parties.

7. Considering the fact the petitioner and the 4th respondent have approached the civil court and suits filed by them have been pending and also considering the fact that, as of now, the property stands in the name of the 4th respondent, this court is of the considered view that the petitioner is not entitled to transfer the property tax assessment in his name until the dispute regarding title is resolved by the civil court. It is needless to point out that if the petitioner succeeds in the suit filed by him before the Civil Court, he can very well approach the 2nd respondent for transfer of property tax assessment in his name. Thus, this court finds no illegality or irregularity in the order passed by the 2nd respondent warranting interference. The petitioner is not entitled for any relief and the writ petition deserves only to be dismissed.

8. In the result, the Writ Petition is dismissed. However, it is always open to the petitioner to approach the 2nd respondent Municipality in the event he succeeded in the civil suits pending before the learned District Munif, Tambaram. No costs. Consequently connected MP is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary, Department of Municipal Administration
and Water Supply, Fort St. George, Chennai 600009.

2.The Commissioner, Tambaram Special Grade Municipality,
Tambaram, Chennai 600045.

3.The Commissioner, Commissionerate of Municipal Administration
6th Floor, Ezhilagam Annexe Building, Chepauk, Chennai
600005.

+1cc to Mr.P.Srinivas, Advocate, S.R.No.57184

+1cc to Mr.S.Pavesh Kannan, Advocate, S.R.No.57340

+1cc to the Government Pleader, S.R.No.57203

W.P.No.4997 of 2013

GSP(04/09/2018)