IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.18384 of 2018

M.Tamilarasi ... Petitioner

Vs.

1.The Commissioner of Municipality,
Mannargudi,
Thiruvarur District.

2.S.Sathyanarayanan … Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus, to call for the records relating to the impugned order of the first respondent in Na.Ka.No.1347/2017/A1, dated 07.4.2017 and quash the same and to direct the first respondent to effect name change in Tax receipt in petitioner's name in-furtherance of property given under the sale certificate by the Sub Court, Mannargudi, dated 17.3.2016.

For Petitioner : Mr.R.S.Sivaram

For Respondents : Mr.P.Srinivas
Standing counsel for R1
Mr.J.Nandagopal for R2

O R D E R

Heard Mr.R.S.Sivaram, learned counsel for the petitioner, Mr.P.Srinivas, learned counsel for the first respondent and Mr.J.Nandagopal for the second respondent and perused the materials available on record.

2. The prayer sought for in this writ petition is for issuance of a writ of certiorarified mandamus, to quash the order of the first respondent dated 07.04.2017 and consequently direct the first respondent to effect name transfer in tax receipt in favour of the petitioner.

3. The case of the petitioner is that she instituted a suit in O.S.No.83/2002 before the Sub Court, Mannargudi for recovery of money. Based on the decree, she filed an execution petition in E.P.No.63 of 2006 and in the Court auction sale held on 02.06.2010, she became the successful bidder and the sale was confirmed in her favour on 30.04.2015 and a sale certificate was issued on 17.3.2016 and the same was registered by the Sub Registrar, Mannargudi on 15.3.2017.

4. The petitioner further claims that the Electricity Board transferred the service connection in her favour. But, the first respondent by the impugned refused to change the property tax assessment, due to the pendency of the suit in O.S.No.20 of 2017, filed by the second respondent and the legal opinion given by the Standing Counsel dated 07.04.2017.

5. The learned counsel for the petitioner would submit that the second respondent has no right or title over the property purchased by the petitioner in the Court auction sale. The application in E.A.No.89 of 2010 filed by the second respondent under Order 21 Rule 58 was rejected by the Sub Court, Mannargudi and the same was confirmed by the Principal District Judge, Tiruppur in A.S.No.16 of 2012 on 05.12.2013. The further contention of the learned counsel for the petitioner is that instead of filing second appeal, the second respondent has chosen to file a fresh suit in O.S.No.20 of 2017, after lapse of four years, without even impleading the petitioner as a party. According to the learned counsel, the above said suit is not maintainable.

6. The learned Standing counsel for the first respondent would submit that the application of the petitioner was kept pending due to the objection made by the second respondent and pendency of the suit in O.S.No.20 of 2017.

7.The learned counsel for the second respondent submitted that the second respondent has filed a suit challenging the auction sale and even, without numbering the suit, the plaint was rejected and hence he has filed a Civil Revision Petition. The contention of the second respondent is that till the suit reaches finality, the property tax assessment shall not be transferred in favour of the petitioner.

8. In the instant case, it is not in dispute that the petitioner is a successful bidder in the Court auction held on 02.06.2010 and a sale certificate was issued in the month of March, 2016. The second respondent has unsuccessfully challenged the Court auction sale in E.A.No.89 of 2010, before the Sub Court, Mannargudi and the order was confirmed by the Principal District Judge, Tiruppur in A.S.No.16 of 2012.

9. It is be noted that the second respondent has instituted a suit in O.S.No.20 of 2017, before the District Munsif Court, Mannargudi against The Assistant Engineer, Tamil Nadu Electricity Board and others, seeking permanent injunction. Since the writ petitioner was a Court auction purchaser and her sale was confirmed by the Sub Court, Mannargudi and the sale is not set aside by the Competent Court, in my considered opinion, there is no impediment for transfer of property tax assessment in favour of the petitioner.

10. In such view of the matter, the orders impugned in this writ petition is quashed and the first respondent is directed to transfer the property tax assessment in favour of the petitioner. Accordingly, this writ petition is allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Commissioner of Municipality,
Mannargudi,
Thiruvarur District.

+1cc to Mr.D.Saravanakumar, Advocate sr.no.52746
+1cc to Mr.P.Srinivas, Advocate sr.no.43855

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nr 05/09/2018