



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2018

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P (MD) No.4001 of 2015

C.Muthukkaruppan

.. Petitioner

Vs.1.The Commissioner,
Dindigul Corporation, Dindigul.

2.S.Sanjeev Kumar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Na.Ka.No.4615/2013/A6 dated 25.11.2014 on the file of the respondent and quash the same as illegal in respect of the petitioner's House Tax Assessment No.57154 is concerned and consequently to direct the respondent No.1 to restore the property tax assessment No.57154 in respect of house property bearing Door Nos. 70 A to 70 F, Ward No.40, (Old Ward 3) comprised in T.S.No. 731 and 732 situated at Kudaipparai Patti, Begampure Post, Dindigul in the name of the petitioner and his brother within time framed by this Court.

For Petitioner : Mr.M.Kalifullah
For R1 : Mr.J.Lawrance
For R2 : Mr.D.Selvanayagam

O R D E R

The petitioner herein is aggrieved by the order of the first respondent in effecting mutation in the matter of property tax assessment. According to the petitioner, the property in question namely, Door Nos. 70 A to 70 F, Ward No.40, (Old Ward 3) comprised in T.S.Nos. 731 and 732 situated at Kudaipparai Patti, Begampure Post, in Dingigul belongs to the petitioner and his brother. Without notice to them, the first respondent changed the assessment in favour of the second respondent. Therefore, the petitioner filed a writ petition in W.P.(MD) No.15334 of 2014. The said writ petition was disposed of in the following terms:

"4. It is seen that prior to the transfer of the property tax assessment in the name of the second respondent, the petitioner was not issued any notice. Therefore, when the first respondent had taken steps to cancel the property tax assessment standing in the name of the petitioner and his brother at the instance of



the second respondent, they ought to have first heard the petitioner. Even prior to that the first respondent ought to have seen as to on what basis, the second respondent seeks for transfer of the same. These aspects of the matter have not been considered by the first respondent. Further more, if there is any dispute with regard to the title to the property, the second respondent ought to have been directed to approach the civil court and curiously the first respondent directed the petitioner to approach the Civil Court, Thus, the action of the first respondent is vitiated by serious procedural irregularity.

5. Since the writ petition is disposed of without notice to the first respondent, I am not inclined to give any opinion with regard to the contentions as regards the validity of the document relied on by the second respondent. It is seen that the petitioner had submitted a detailed objection on 11.04.2014 to the first respondent and the same is still pending.

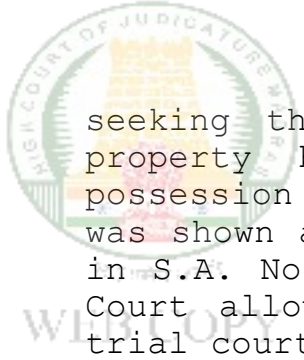
6. In that view of the matter, there will be a direction to the first respondent to conduct an enquiry by considering the petitioner's objection dated 11.04.2014 after issuing notice to the petitioner and his brother as well as the second respondent and after affording opportunity of personal hearing to the petitioner and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order".

2. Pursuant to the direction given in the said writ petition, enquiry was conducted and thereafter, impugned order dated 25.11.2014 was passed by the first respondent. The first respondent made it clear that the assessment would stand in the name of Sajeev Kumar and that it will not be changed in favour of the petitioner herein. Challenging the aforesaid order, this writ petition has been filed.

3. The learned counsel appearing for the petitioner reiterated the contentions set out in the affidavit filed in support of the writ petition. His specific contention is that the earlier round of civil litigation between the petitioner's family and the predecessor in title of the second respondent pertained only to the property comprised in Door No.7 and 7A while the present property pertains to Door Nos. 70A and 70F.

4. I am unable to agree with the aforesaid submission of the learned counsel appearing for the writ petitioner.

5. The learned counsel for the second respondent filed a typed set of papers containing the copies of the judgment passed in the earlier round. It is seen therefrom one Angammal and Lakshmi Ammal filed O.S.No. 46 of 1976 before the Principal Sub Court, at Dindigul



seeking the relief of declaration that the suit 'B' schedule property belongs to them and for consequential recovery of possession from the defendants. The writ petitioner Muthukaruppan was shown as the fourth defendant. The matter was finally concluded in S.A. No.1474 of 1997 by order dated 11.12.1990. The Madras High Court allowed the Second Appeal and restored the judgment of the trial court whereby the suit was decreed. The writ petitioner herein was shown as the second respondent in the said Second Appeal.

6. This Court posed a specific question as to how the writ petitioner herein is claiming his title. The learned counsel would refer to a settlement document executed by their Aunt on 26.04.1975. On the judgment in the Second Appeal, the settlement document dated 26.04.1975 was specifically considered. When the decree was put to execution, the very same objections now projected were raised before the Execution Court also and they were rejected.

7. C.R.P.Nos. 3079 and 30 80 of 1991 came to be filed before the Madras High Court and both the Civil Revision Petitions were dismissed on 21.01.1992. Thus, the issue has attained finality in the said Civil Revision Petitions.

8. Therefore, the order passed by the first respondent is squarely in consonance with the judgment passed by the Madras High Court in S.A.1474 of 1991 and the orders made in C.R.P.Nos. 3079 and 3080 of 1991. The matter does not call for any interference. There is absolutely no merit in the writ petition. The petitioner, who lost in the civil proceedings, is attempting to agitate the very same issues in this writ proceedings. He cannot be permitted to do so.

9. In the result, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The Commissioner,
Dindigul Corporation, Dindigul.

+ 1 CC TO Mr.D.SELVANAYAGAM, ADVOCATE IN SR No. 96515

CM

TE/BK/SAR-1 : 13/12/2018 : 3P/3C

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22.11.2018