

In the High Court of Judicature at Madras

Dated : 03.4.2019

Coram

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Writ Appeal No.1038 of 2019 & CMP.No.7761 of 2019

Tmt.Krishnaveni

...Appellant

Vs

1.The Commissioner, Corporation
of Chennai, Rippon Building,
Chennai-3.

2.The Deputy Commissioner, Revenue
& Finance, Chennai Corporation,
Rippon Building, Chennai-3.

...Respondents

APPEAL under Clause 15 of the Letters Patent against the
order dated 11.1.2019 passed in W.P.No.26581 of 2016.

W.P.No.26581 of 2016:

Petition under Article 226 of the Constitution of India,
praying for the issue of a Writ of certiorari, calling for the
records pertaining to the rejection order passed dt 29.6.2016 on
the files of the 2nd respondent by his order No. N.M.U.T. Na.
Ka. No. L.E. 10/836/2009 and quash the same.

For Appellant : Mr.M.Chidambaram

For Respondents : Mr.K.Soundarajan

Judgment was delivered by T.S.SIVAGNANAM,J

We have heard Mr.M.Chidambaram, learned counsel for the
appellant and Mr.K.Soundarajan, learned Standing Counsel
accepting notice for the respondents. By consent, the writ
appeal itself is taken up for final disposal.

2. The appellant has filed this appeal challenging the order
11.1.2019 passed by the learned Single Judge in W.P.No.26581 of
2016.

3. The said writ petition was filed by the appellant
challenging the proceedings of the second respondent dated
29.6.2016, in and by which, the second respondent rejected the

request made by the appellant for change of name in the property tax assessment from that of the mother of the appellant to her name.

4. The appellant filed the said writ petition primarily on the ground that the proceedings of the second respondent dated 29.6.2016 was passed without adequate opportunity to the appellant and without considering the documents, which were produced by the appellant during the enquiry conducted by the second respondent. It is further submitted that the second respondent was not justified in rejecting the request made by the appellant on the sole ground that she had not produced any documents in the absence of any notice to the appellant calling for documents to prove her stand.

5. It is also submitted by the learned counsel for the appellant that the second respondent ought to have considered the fact that there were no rival claims, that there were four legal heirs to the appellant's mother - Mrs.Palayammal and they are (i) the appellant herein; (ii) the two sisters of the appellant namely Mrs.Sivakami and Mrs.Guna Boosanam; and (iii) the brother of the appellant by name Mr.Ramachandran, that the two sisters of the appellant died in the year 1990 and 2007 respectively, that the appellant's brother - Mr.Ramachandran, an unmarried person, was stated to have given a no objection certificate to effect name transfer in favour of the appellant in the records of the Corporation of Chennai, as he is residing with her and that the appellant is taking care of him. Thus, the contention of the learned counsel for the appellant is that nowhere the respondent Corporation disputed the allotment made in favour of the appellant's mother and that merely because the appellant was unable to produce the original allotment order, that cannot be a ground to reject the request and more particularly when the appellant was able to produce other records to substantiate that she is in lawful possession of the premises.

6. The learned Single Judge rejected the said writ petition solely on the ground that the original order of allotment issued in favour of the mother of the appellant was not produced after disbelieving the stand taken by the appellant that the same was lost during the floods, which affected Chennai city in December 2015.

7. In our considered view, had the respondent Corporation disputed the allotment made in favour of Mrs.Palayammal - the appellant's mother, it would have been a different matter. When there appears to be no dispute raised by the respondent Corporation in that regard, we are of the considered view that the second respondent should consider the request made by the appellant afresh after taking note of the documents produced by

her and if any additional documents are required to be produced, they can be called for and the appellant can be directed to execute an indemnity bond so as to facilitate transfer to be effected in the name of the appellant.

8. For the above reasons, the writ appeal is allowed, the order dated 11.1.2019 passed in the said writ petition is set aside, the proceedings of the second respondent dated 29.6.2016 is quashed and the matter is remanded to the second respondent for a fresh consideration. The second respondent shall afford an opportunity of personal hearing to the appellant or her authorized representative, peruse the documents that she may produce, call for additional documents, if needed, obtain an indemnity bond from the appellant and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this judgment. No costs. Consequently, the connected CMP is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Commissioner, Corporation of Chennai, Rippon Building, Chennai-3.

2.The Deputy Commissioner, Revenue & Finance, Chennai Corporation,
Rippon Building, Chennai-3.

+1 CC to Mr.M.Chidambaram , advocate sr 31940.

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WA.No.1038 of 2019&
CMP.No.7761 of 2019

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SP(13/05/2019)

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