

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No. 21853 of 2019

1.J.Harikrishnan
2.H.Amudha

...Petitioners

vs

- 1.The Commissioner,
Corporation of Chennai,
Ribbon Building,
Chennai-600 003.
- 2.The Zonal Officer,
Zone -IV,
Corporation of Chennai,
No.266, T.H. Road, Tondiarpet,
Chennai-600 081.
- 3.The Assistant Revenue Officer,
Zone -IV,
Corporation of Chennai,
No.266, T.H. Road, Tondiarpet,
Chennai-600 081.
- 4.The Junior Engineer,
Zone -IV,
Corporation of Chennai,
No.266, T.H. Road, Tondiarpet,
Chennai-600 081.
- 5.The Assessor,
Zone -IV,
Corporation of Chennai,
No.266, T.H. Road, Tondiarpet,
Chennai-600 081.

6.Manimaran, ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the second and third respondent to dispose the petitioner's representation dated 21.05.2019 by conducting an enquiry thereon to cancel the Assessment order stands in the name of the sixth respondent in respect of a portion of petitioners' property at Old No.9, New No.10/1 Manicka Vathiyar Street, Old Washermenpet, Chennai-21.

For Petitioners : Mr.S.Puspakaran

For Respondents : Ms.Karthikaa Ashok
Standing counsel for Corporation
R1 to R5

O R D E R

This writ petition has been filed by the petitioners, seeking for the issuance of Mandamus to direct the second and third respondent to dispose of their representation dated 21.05.2019 by conducting enquiry and to cancel the assessment order that stands in the name of sixth respondent in respect of portion of petitioner's property at Old No.9, New No.10/1 Manicka Vathiyar Street, Old Washermenpet, Chennai-21.

2. According to the petitioners, they are the owners of the land and building situated in the premises mentioned above. The portion of the said property was let out to the sixth respondent by the father of the first respondent. Since the sixth respondent committed default in payment of rent, eviction proceedings were initiated against him in RCOP Nos. 2262 to 2266, before the XI Small Causes Court, Chennai. According to the petitioners, the sixth respondent herein created a false document ie., settlement deed dated 29.05.2009 vide document No.1506 of 2009 on the file of the Sub Registrar, Rayapuram, as if it is executed by his mother in favour of him. As per the settlement deed, his mother settled the superstructure in favour of the sixth respondent, in respect of the subject property, but no particulars were stated in the settlement deed as to how and in what manner she derived over the superstructure. The petitioners claimed that they are the owners of the land as well as the superstructure. It appears that the sixth respondent based on the said settlement deed, obtained order from the third respondent effecting name transfer in respect of the subject property and thereafter the sixth respondent also started paying tax in his name. Aggrieved by the same, the petitioners lodged a complaint before the concerned police but there was no action. The grievance of the petitioners is that now the sixth respondent is taking effective steps to demolish the existing superstructure and to construct a building therein. The petitioners approached the respondents 1, 2 and 4 by way of the representation dated 12.05.2018, seeking cancellation of order of name transfer of property tax and they also made an another representation dated 27.06.2018 to the third respondent seeking investigation of property tax which stands in the name of sixth respondent.

3. According to the petitioners, the sixth respondent also obtained building plan permission and water sewerage connection from the competent authority and hence they sent another representation to the second and third respondents on 21.05.2019, seeking to demolish the unauthorized construction and to disconnect water sewerage connection. Since there is no response, the present writ petition is filed.

4. Heard both sides and perused the documents placed on record.

5. In fact the writ of mandamus cannot be issued merely because the person is praying for one. If he wants to approach this Court for writ of Mandamus, he must establish the right and then he must seek for permission to enforce the said right if there is failure of duty or inaction by the authorities. It is the case of the writ petitioner that they are the owners of the subject property in respect of which the sixth respondent already obtained necessary orders in his favour. Now, the petitioners seek writ of mandamus to direct the officials to dispose of all their representation, that are said to have been made in order to take appropriate action. This Court cannot go into such disputed facts and adjudicate upon the issues. It is for the writ petitioners to approach the Civil Court and seek appropriate remedy including declaration of their title over the subject matter property and also cancellation of name of transfer. This Court does not find any merits to entertain the writ petition and grant a relief as sought for. Therefore the writ petition is dismissed as devoid to merits.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

tta

To.

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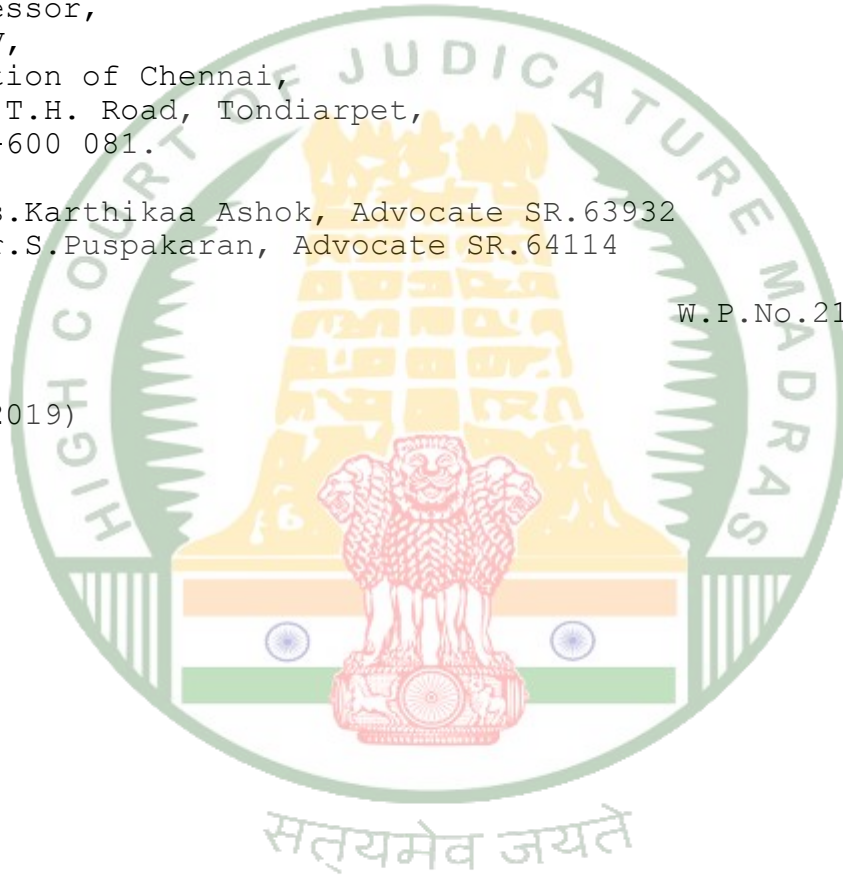
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+1cc to Ms.Karthikaa Ashok, Advocate SR.63932
+1cc to Mr.S.Puspakaran, Advocate SR.64114

W.P.No.21853 of 2019

BS (CO)
CB(15/10/2019)



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