

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.04.2019

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.34725 of 2018

&

WMP No.40269 of 2018

N.Kartheesan

...Petitioner

-Vs-

1.The Commissioner
Chennai Corporation
Rippon Buildings, Chennai-600 003

2.The Assistant Engineer, Zone-VIII
Chennai Corporation
Shenoy Nagar, Chennai-600 030

3.The Zonal Officer, Zone-VIII
Chennai Corporation
Shenoy Nagar, Chennai-600 030

4.Durai Raj

....Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 25.09.2018 passed by the 3rd respondent vide MA.A.8.V.Thu.Na.Ka.Enn.R1/2035/2018 in respect of the property admeasuring an extent of 1200 sq.ft., situated at Door No.33, Valluvar Nedumpathai, Rani Anna Nagar, Chennai-106, and quash the same as illegal, arbitrary and devoid of merits and consequently direct the 3rd respondent to add the legal heirs of the said Namakani Nadar and Thangamani and issue property tax assessment in the name of the petitioner and other legal heirs after due enquiry.

For Petitioner : Mr. Abdul Mubeen

For Respondents : Mrs.Kaarthikaa Ashok

for R1 to R3.
Mr.T.Sudhan for R4.

O R D E R

This Writ Petition is filed challenging the impugned order dated 25.09.2018 passed by the 3rd respondent in respect of the property admeasuring an extent of 1200 sq.ft., situated at Door No.33, Valluvar Nedumpathai, Rani Anna Nagar, Chennai-106, and quash the same and consequently to direct the 3rd respondent to add the name of legal heirs of the said Namakani Nadar and Thangamani and issue property tax assessment in the name of the petitioner and other legal heirs after due enquiry.

2. The learned Standing Counsel appearing for Respondents 1 to 3 filed Additional Counter Affidavit and submits that by taking earnest efforts, the respondent-Corporation was able to get an affidavit filed by a third party, occupant of the subject matter of the property. It transpired that in respect of the property, a Civil Suit was filed by B.C.Munirathinam, who is the third party and claims that it is his property and admittedly the petitioner and the 4th respondent does not have any title to the property. The papers pertaining to the suit are not available with the corporation. Even in the enquiry held by the Corporation, either parties had not produced any documents. The respondent-Corporation, thereafter, was able to get an affidavit filed by a third party, occupant of the subject matter of the property viz., B.C.Munirathinam. From the said affidavit, it is learnt that the property was originally belonged to one B.C.Munirathinam Naidu. He filed a suit for declaration to declare him as an insolvent and his property was taken by the Official Assignee. The subject matter of the said OSA proceedings are still pending and no sale deed had been obtained by the parties pursuant to the order. Thus the occupants, the deceased Thirumani Thangam was in occupation of Door No.7/33 and the 4th respondent was in occupation of Door No.34A. It is further averred in paragraph 6 of the counter that the collection of Property Tax by the Corporation is concerned, it is the charges paid for the services enjoyed by the assesseees, which does not confer any title to the property. The Chennai City Municipalities Act, 1919, empowers the respondent to collect the taxes, based on the resolution of the council. By Resolution No.309/03, the council had decided to assess tax for the property under encroachment and accordingly the subject property was assessed to tax. The details are given as under:-

(i) Vide Bill No.0810507526/00 by Order dated 01.11.2011 with effect from II half 98-99 in the name of Thirumani Thangam (deceased) with respect to her occupancy.

(ii) Vide Bill No.0810503126/00 by order dated 09.04.2007 with effect from I half 2006-2007 in the name of 4th respondent with respect to her occupancy.

The respondents 1 to 3 by stating so, sought to dismiss the Writ Petition.

3. Recording the submission made on behalf of respondents 1 to 3 and the averments in the additional counter affidavit, this Writ Petition is dismissed as no relief could be granted to the Writ Petitioner. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

nvsri

To:

- 1.The Commissioner
Chennai Corporation
Rippon Buildings, Chennai-600 003
- 2.The Assistant Engineer, Zone-VIII
Chennai Corporation
Shenoy Nagar, Chennai-600 030
- 3.The Zonal Officer, Zone-VIII
Chennai Corporation
Shenoy Nagar, Chennai-600 030

+1cc to Mr.R.Abdul Mubeen, Advocate, S.R.No. 34163
+1cc to Mr.Karthikaa Ashok, Advocate, S.R.No.34489

सत्यमेव जयते

W.P.No.34725 of 2018

MP (CO)
GN (20/08/2019)

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