BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Date : 28.02.2019
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.2958 of 2019
and
W.M.P(MD).No.2221 of 2019

T.V.Viswanathan ... Petitioner

Vs

1.The Commissioner,
Corporation of Madurai,
Aringnar Annamaligai,
Madurai-2.

2.The Assistant Commissioner,
Corporation of Madurai,
Zone 3-Mahal,
C.M.R.Road, Madurai-9.

3.M.N.Kumaresh Babu ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents 1 and 2 to immediately delete the name of the third respondent in respect of Property Tax and Water Charges for Door No.41A, Mahal Vadampokki Street, New Ward No.74, Madurai-1 and include the name of the petitioner as per the judgment in A.S.No.60/2010 dated 05.09.2018 by this Court.

For Petitioner : Mr.M.S.Sureshkumar
For R1 & R2 : Mr.S.Chellapandian

For R3 : Mr.J.Barathan

ORDER

Heard the learned counsel on either side.

2. The matter pertains to the assessment and levy of Property Tax in respect of the petition mentioned building. It is not in dispute that the property originally stood in the name of one Kuppusamy. Tmt.Saratha Ammal was his daughter. Kumaresh Babu, the third respondent herein, is the grandson of KuppusamyIyer.

3. The case of Saratha Ammal was that the life interest given to her blossomed into an absolute right by virtue of Section 14 of Hindu Succession Act,1956. She initiated civil proceedings in this regard. During the pendency of the proceedings, the said Saratha Ammal passed away and her legal heirs included in this writ petition, came on record. They prosecuted A.S.No.60 of 2010. The first appeal was allowed on 05.09.2018. The third respondent herein

Kumaresh Babu was shown as the first respondent in the said first appeal. This Court posed a question as to whether the said judgment has become final. The learned counsel appearing for the third respondent stated that he has filed a petition for review along with a petition for condoning a nominal delay and that it is still pending.

4. The grievance of the petitioner, who is one of the sons of Sarathaammal, is that behind his back the third respondent got the assessment changed in his name.

5. I am of the view that when the civil proceedings had concluded in favour of the legal heirs of Sarathammal, the assessment register maintained by the Corporation will have to reflect the said result. Therefore, this Court directs the respondents 1 and 2 to delete the name of the third respondent in the property tax registered in respect of the petition mentioned property. Of course the writ petitioner cannot demand that his name should be substituted in the place of the third respondent. Late.Saratha Ammal had three children, namely, the writ petitioner, T.V.Sivanath and T.V.Premnath. The assessment register maintained by the Corporation will have to reflect the said three names jointly.

6. Of course the Corporation would abide by the outcome of the Review proceedings initiated by the third respondent for reviewing the judgment and decree dated 05.09.2018 made in A.S.No.60 of 2010.

7. With these observations, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

TO:

The Commissioner,
Corporation of Madurai,
Aringnar Annamaligai, Madurai-2.

rmk
1 CC to M/s.M.S.SURESH KUMAR, Advocate (SR-50608[F] dated 28/02/2019)
+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-50858[F] dated 01/03/2019)

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DS/ /SAR- (22.04.2019) 2P 4C