



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 3423 of 2019 and

W.M.P. (MD) No. 2692 of 2019

Nora V. Subramani

... Petitioner

Vs.

1. The Commissioner,
Tirunelveli City Municipal Corporation,
S.N. High Road, Tirunelveli - 627 001.

2. The Assistant Commissioner,
Palayamkottai Ward Corporation Office,
Tirunelveli City Municipal Corporation,
Palayamkottai, Tirunelveli - 627 002.

3. N. Balakrishnan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records of the second respondent relating to the impugned order in proceeding No. Na. Ka. N: A4/6657/2018 dated 30.01.2019, quash the same as illegal, arbitrary and devoid of merit and consequently direct the second respondent to collect property taxes in respect of residential flats bearing T7 & T8, St. Thomas Road, Srinivasa Nagar, V.M. Chatram, Palayamkottai only from owner being the petitioner herein without any hindrance.

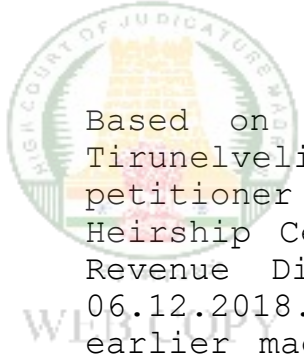
For Petitioner : Mr. S. Karunamoorthy

For R-1 & R-2 : Mr. Aayiram K. Selvakumar,
Additional Government Pleader.

For R-3 : M/s. S. Srimathy

ORDER

The petitioner claims to be the wife of Late. N. V. Subramaniam. This claim of the petitioner is strongly contested by Thiru. N. Balakrishnan, brother of Late. N. V. Subramaniam. The issue on hand is whether the respondent Corporation should assess the property in question in the name of the Writ petitioner. After N. V. Subramaniam passed away, the petitioner herein obtained Legal Heirship Certificate from the Tahsildar, Mylapore Taluk, Chennai-28.



Based on the proceedings of the jurisdictional Tahsildar, the Tirunelveli Corporation changed the records in favour of the Writ petitioner for the purpose of property tax assessment. The Legal Heirship Certificate issued by the Tahsildar was set aside by the Revenue Divisional Officer, South Chennai Division, Chennai on 06.12.2018. Thereafter, the Corporation set aside the mutation earlier made and restored the name of N.V.Subramaniam. This order passed by the respondent Corporation on 30.01.2019 is challenged in this Writ petition.

2. The learned counsel appearing for the Writ petitioner states that questioning the order of the Revenue Divisional Officer, South Chennai Division, the petitioner has filed a Revision before the District Collector, Chennai. The District Collector has taken on file the Revision filed by the Writ petitioner and posted the matter for hearing also. He faulted the hastiness with which the Corporation moved in the matter ignoring the proceedings that are pending before the District Collector, Chennai.

3. I am of the view that the order passed by the respondent Corporation can be sustained with one modification. It is seen that the issue raised in this Writ petition will have to be ultimately adjudicated only by the jurisdictional civil Court. Even the District Collector, Chennai, cannot decide as to whether the Writ petitioner is the wife of Late.N.V.Subramaniam.

4. Therefore, this Court even while sustaining the impugned order restoring the name of N.V.Subramaniam in the property tax assessment register in respect of the petition mentioned properties, permits the petitioner to remit the property tax for the properties in question. This course of action suggested by this Court is accepted by the third respondent also. It is made clear that the petitioner cannot claim any right in respect of the said property, merely because, this Court has permitted the petitioner to remit the property tax. It is once again reiterated that this Court has not pronounced anything on the merits of the matter. The parties will have to move the jurisdictional civil Court.

5. The Writ petition stands disposed of, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)



To
1. The Commissioner,
Tirunelveli City Municipal Corporation,
S.N.High Road, Tirunelveli - 627 001.

2. The Assistant Commissioner,
Palayamkottai Ward Corporation Office,
Tirunelveli City Municipal Corporation,
Palayamkottai, Tirunelveli - 627 002.

1 CC to M/s.S.M.S.JOHNNY BASHA, Advocate (SR-55207[F] dated
20/03/2019)

+1 CC to M/s.AAYIRAM K.SELVAKUMAR, Advocate (SR-55409[F] dated
20/03/2019)

+1 CC to M/s.S.KARUNAMOORTHY, Advocate (SR-55705[F] dated
21/03/2019)

W.P.(MD)No.3423 of 2019 and
W.M.P.(MD)No.2692 of 2019

19.03.2019

DS/ /SAR- (09.04.2019) 3P 6C