BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P.(MD)No.11917 of 2010

and

M.P.(MD).No.1 of 2010

M.S.Muthuraman ... Petitioner

Vs

1.The Commissioner,
Madurai Corporation,
Alagar Koil Road, Tallakulam, Madurai.

2.The Assistant Commissioner,
East Zone, Madurai Corporation,
Madurai.

3.Shanthi
represented through her power agent
P.Thirunavukarasu ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the impugned order in கி.ம.வ.8/006321/109, dated 23.08.2010 sent by the second respondent and quash the same and direct the respondent Nos.1 and 2 to act as per the outcome of the civil suits in O.S.No.1037 of 2001 and E.A.No.556 of 2004 in E.P.No.97 of 2004, which is pending on the file of the I Additional Subordinate Judge, Madurai.

For Petitioner	:	Mr.Babu Rajendran
For R-1	:	Mr.T.S.Mohamed Mohideen
For R-2	:	Mr.M.Ravishankar
For R-3	:	Mr.A.Arun Prasad

ORDER

This writ petition has been filed challenging the impugned order, dated 23.08.2010 passed by the second respondent.

2. Heard Mr.Babu Rajendran, learned counsel appearing for the petitioner and Mr.T.S.Mohamed Mohideen, learned Standing Counsel appearing for the first respondent and Mr.M.Ravisankar, learned counsel appearing for the second respondent as well as Mr.A.Arun Prasad, learned counsel appearing for the third respondent.

3. It is the case of the petitioner that pursuant to a judgment and decree passed in his favour on 10.06.2002 in

O.S.No.1037 of 2001, before the learned I Additional Subordinate Judge, Madurai, he became the absolute owner of the property, situated in T.S.Nos.14/8, 229/3 in Plot No.10, 4th Street, Pankajam Colony, Madurai District, Madurai Town. According to him, he submitted an application for transfer of revenue records in his name with the second respondent on 11.09.2004. In the impugned order, the second respondent has rejected the said application on the ground that despite several notices sent to the petitioner asking him to appear for an enquiry, he failed to appear and produce the relevant records / documents to prove his ownership for getting the revenue records transferred in his name. Aggrieved by the impugned order, this Writ Petition has been filed.

4. This Court has perused and examined the impugned order as well as the counter affidavit filed by the first respondent before this Court.

5. In the counter affidavit, the first respondent has stated that the petitioner failed to appear before the second respondent despite the second respondent having sent four notices to him. It is also their contention that the third respondent has produced the sale deeds and only thereafter, the petitioner's application for vacant site tax assessment in his name for the aforementioned property was rejected.

6. But in the impugned order, there is no reference to the scrutiny of sale deeds by the second respondent and only in the counter filed before this Court, the same has been disclosed by the first respondent. It is the contention of the petitioner before this Court that the impugned order has been passed by the second respondent arbitrarily and illegally without giving due consideration to the judgment and decree passed in O.S.No.1037 of 2001, in favour of the petitioner. According to the petitioner, the said judgment and decree has attained finality and therefore, the second respondent ought to have assessed the vacant site tax in his name. As seen from the impugned order, the petitioner has not been heard before passing of the impugned order. The impugned order has also not considered the judgment and decree, dated 10.06.2002 in O.S.No.1037 of 2001. The details of documents scrutinised by the second respondent before passing of the impugned order does not disclose the sale deed standing in the name of the third respondent.

7. This being the case, this Court is of the view that the second respondent has arbitrarily passed the impugned order. Hence, the impugned order will have to be necessarily quashed by this Court and remanded back to the second respondent for fresh consideration after giving sufficient opportunity of hearing to

the petitioner as well as the third respondent to place all the relevant documents / records in support of their respective contentions and only thereafter, the second respondent shall pass final orders with regard to the assessment of vacant land tax in respect of the property situated at T.S.Nos.14/8, 229/3, Plot No.10, 4th Street, Pankajam Colony, Madurai Town, Madurai District.

8. For the foregoing reasons, the impugned order, dated 23.08.2010 passed by the second respondent is hereby quashed. The matter is remanded back to the second respondent for fresh consideration and the second respondent shall pass final orders after giving sufficient opportunity of hearing to the petitioner as well as to the third respondent, on merits and in accordance with law, by permitting them to place all the relevant documents / records in support of their respective contentions, within a period of eight weeks from the date of receipt of a copy of this order.

9. With the aforesaid direction, the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

+1 CC to M/s.T.S. MOHAMED MOHIDHEEN, Advocate (SR-19567[F] dated 09/10/2020)
+1 CC to M/s.BABU RAJENDRAN, Advocate (SR-19532[F] dated 09/10/2020)

W.P.(MD)No.11917 of 2010
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SCR(CO)
TR(16.10.2020) 3P 3C