



WEB COPY

W.A(MD)No.568 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)No.568 of 2020

and

C.M.P(MD)No.3824 of 2020

C.A.Annathai

... Appellant /3rd party

-Vs-

1.Gobi Kannan

... 1st respondent / petitioner

2.The District Collector,
Virudhunagar District.

3.The Block Development Officer,
Block Development Office,
Aruppukottai Union,
Virudhunagar District.

4.The President,
Atthipatti Village Panchayat,
Arruppukottai Taluk,
Virudhunagar District.

... Respondents 2 to 4 / Respondents 1 to 3

Prayer: Writ Appeal - filed under Clause 15 of the Letters Patent Act, to set aside the order dated 31.01.2020 passed in W.P(MD) No.18457 of 2015.

Prayer in WP(MD). 18457/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Mandamus directing the 3rd respondent to transfer the house tax receipt in petitioner name from petitioner s deceased father name as per the proceedings of the 2nd respondent Na.Ka.No.2/1332 dated 28.09.2015 within a stipulated time as fixed by this Honourable Court.

For Appellant : Mr.R.Maheswaran

For R-1 : Mr.PM.Vishnuvarthanan

For R-2 : Mr.K.P.Krishnadoss,
Special Government Pleader



JUDGMENT

[Judgment of the Court was delivered by **M. SATHYANARAYANAN, J.,**]

The third party, who after obtaining leave has filed this writ appeal challenging the order dated 31.01.2020 passed in W.P(MD) No.18457 of 2015 filed by the first respondent / writ petitioner.

2. The first respondent / writ petitioner filed the above writ petition praying for issuance of a Writ of Mandamus, directing the fourth respondent herein to transfer house tax receipt in his name from his deceased father's name as per the proceedings of the third respondent dated 28.09.2015 within a stipulated time prescribed by this Court.

3. The learned Judge has taken note of the facts and circumstances, has allowed the writ petition and it is relevant to extract Paragraph No.4 of the said order:

"4. Considering the facts and circumstances of the case, this Court is able to see that the respondents can be directed to transfer the property tax assessment in the name of the petitioner and his mother and his sisters subject to legitimate mutation or modification, if it is required on the basis of any civil Court decree. Accordingly, the third respondent is directed to transfer the property tax assessment in favour of the petitioner and his mother and his sisters as per the legal heirship certificate issued by the Tahsildar, Aruppukottai, dated 31.10.2014 in respect of the house property, in which the petitioner is residing, within a period of eight weeks from the date of receipt of a copy of this order."

4. The learned counsel appearing for the appellant would submit that the appellant has filed a civil suit in O.S.No.122 of 2014 on the file of the Court of Subordinate Judge, Aruppukottai, against one Vijayalakshmi and four others and in the array of the defendants, the first respondent / writ petitioner is shown as third defendant and the said suit was filed for partition and other consequential reliefs and though two items of properties bearing Door Nos.II/243 and 299 of Athipatti village have not been shown in the schedule of properties, in the year 2016, an application for amendment of plaint for the inclusion of the said properties has been filed and the first respondent / writ petitioner was also well aware of the said fact and the writ petition also came to be allowed, but the said fact has not been brought to the knowledge of the learned single Judge at the time of disposal of the writ petition on 31.01.2020 and hence, prays

for interference.



5. Per contra, the learned counsel appearing for the first respondent would submit that at the time of filing the writ petition, the schedule of properties in O.S.No.122 of 2014 on the file of the Court of Subordinate Judge, Aruppukkottai, have not been amended and it was only a subsequent development and as regards non-disclosure of the subsequent inclusion of the property in the plaint schedule, it was an inadvertent mistake and would further add that admittedly, the property tax receipts pertain to the two properties originally stood in the name of his father and as of now, it is yet to be transferred in compliance of the order passed in the above said writ petition.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. It is a well settled position of law that inclusion of a name in the property tax receipts as well as issuance of patta would not cloth any person with the title. The collection of property tax alone cannot confer such a right upon the concerned person and collection of property tax is to aid the local body and that is why even the occupier of the property is liable to pay property tax and at best, it proves the possession of the property.

8. In the light of the above facts and circumstances and the settled legal position, this writ appeal is disposed of with a direction for the transfer of house tax receipts in favour of the first respondent / writ petitioner in pursuance of the order dated 31.01.2020 passed in W.P(MD)No.18457 of 2015, subject to the outcome of the civil proceedings in O.S.No.27 of 2020 pending on the file of the Principal Distirct Court, Srivilliputhur, Virudhunagar District (O.S.No.122 of 2014 on the file of the Court of Subordinate Judge, Aruppukkottai). No Costs. The fourth respondent is directed to pass appropriate orders in terms of the judgment as expeditiously as possible, not later than eight weeks from the date of receipt of a copy of the judgment. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



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.

To:

- 1.The Principal Distirct Judge,
Srivilliputhur, Virudhunagar District.
- 2.The District Collector,
Virudhunagar District.
- 3.The Block Development Officer,
Block Development Office,
Aruppukottai Union,
Virudhunagar District.
- 4.The President,
Atthipatti Village Panchayat,
Arruppukottai Taluk,
Virudhunagar District.

+1 CC to SGP (SR-15689[F] dated 02/09/2020)

Judgment in
W.A(MD)No.568 of 2020
01.09.2020

 KM (14.09.2020) 4P 6C