



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.17144 of 2020

and W.M.P. (MD)No.14309 of 2020

WEB COPY

R.Marimuthu

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Arignar Anna Maligai,
Madurai - 2.

2.The Assistant Commissioner,
Zone-3, Madurai Corporation,
Arignar Anna Maligai,
Madurai - 2.

3.Irulandi Thevar

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Ma.3.A.7/001402/19, dated 25.03.2019 on the file of the second respondent and quash the same as illegal and consequently to direct the first and second respondent to collect the property tax in the name of the petitioner for the house in Door No.4, 4th Cross Street, Kamarajapuram, Madurai-9, within Ward No.70 in Madurai District, within the time stipulated by this Court.

For Petitioner : Mr.S.Louis
For R1 & R2 : Mr.R.Murali,
Standing Counsel.

ORDER

(This petition was heard through video conferencing)

This writ petition has been filed challenging an order, dated 25.03.2019 passed by the second respondent directing the petitioner to implead the third respondent as a party respondent in W.P.(MD)No.15825 of 2018 and thereafter, approach the second respondent for getting property tax assessment in favour of the petitioner.

2.Mr.R.Murali, learned Standing Counsel accepts notice on behalf of the first and second respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.



3.It is the case of the petitioner that by total non-application of mind to the earlier order, dated 20.07.2018 passed by this Court in W.P.(MD)No.15825 of 2018, the second respondent has passed the impugned order, dated 25.03.2019. The learned counsel appearing for the petitioner drew the attention of this Court to the aforesaid order passed by this Court and submitted that the second respondent was directed to dispose of the petitioner's representation, dated 06.07.2018 seeking for transfer of property tax receipt for his property in his name, within a period of six weeks from the date of receipt of that order copy, after giving due opportunity to the petitioner as well as any other persons, who may be interested in the subject property. However, according to him, by total non-application of mind, the second respondent under the impugned order, dated 25.03.2019 has directed the petitioner to approach this Court by filing implead application in W.P.(MD)No.15825 of 2018 to implead the third respondent herein, who also claims right over the same property.

4.This Court perused and examined the order, dated 20.07.2018 passed by this Court in W.P.(MD)No.15825 of 2018 as well as the impugned order, dated 25.03.2019 passed by the second respondent. By order dated 20.07.2018 passed in W.P.(MD)No.15825 of 2018, this Court has made it clear that while passing final order on the representation of the petitioner, dated 06.07.2018 seeking for transfer of property tax receipt in his name, the second respondent is empowered to hear the petitioner as well as any other persons, who may be interested in the subject property, for which the petitioner claims transfer of property tax receipt in his name.

5.When the aforesaid order has made it clear that the second respondent shall hear all the necessary parties and thereafter, pass final order, the second respondent under the impugned order dated 25.03.2019 has called upon the petitioner to implead the third respondent herein in W.P.(MD)No.15825 of 2018 and has stated that only thereafter, the petitioner's representation, dated 06.07.2018 seeking for transfer of property tax receipt in his name, can be considered, this Court is of the considered view that the impugned order, dated 25.03.2019 has been passed by total non-application of mind to the order, dated 20.07.2018 passed by this Court in W.P.(MD)No.15825 of 2018, wherein it has been made it clear that the second respondent is empowered to hear all necessary parties including the petitioner before passing final order on the representation of the petitioner, dated 06.07.2018.

6.It is the case of the second respondent that the third respondent herein is a necessary party for deciding whether the property tax receipt can be transferred in favour of the



petitioner or not. While that being so, the second respondent could have very well issued notice to the third respondent herein and called upon him for hearing for the enquiry proceedings to be conducted by the second respondent, in respect of the petitioner's representation, dated 06.07.2018. Instead of following that procedure, the second respondent, by total non-application of mind, has directed the petitioner to approach this Court and implead the third respondent herein in W.P.(MD)No.15825 of 2018 and has indicated that only thereafter, final order will be passed on the representation of the petitioner. The impugned order having been passed by total non-application of mind has to be necessarily quashed and the matter be remanded back to the file of the second respondent for fresh consideration on merits and in accordance with law.

7.For the foregoing reasons, the impugned order, dated 25.03.2019 passed by the second respondent is hereby quashed and the matter is remanded back to the second respondent for fresh consideration. The second respondent shall consider the petitioner's representation, dated 06.07.2018 seeking for transfer of property tax receipt in his name for the property situated in Door No.4, 4th Cross Street, Kamarajapuram, Madurai-9 and pass final order on merits and in accordance with law, after hearing all the necessary parties including the third respondent herein by issuing notice to him for hearing, within a period of twelve weeks from the date of receipt of a copy of this order.

8.With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gns

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 Commissioner,
Madurai Corporation,
Arignar Anna Maligai,
Madurai - 2.

2.The Assistant Commissioner,
Zone-3, Madurai Corporation,
Arignar Anna Maligai,
Madurai - 2.

+1 CC to Mr.R.MURALI, Advocate (SR-23426[F] dated 01/12/2020)

+1 CC to Mr.S.LOUIS, Advocate (SR-23430[F] dated 01/12/2020)

W.P. (MD) No.17144 of 2020
30.11.2020

PU(CO)
KM (09.12.2020) 4P 5C