BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:**07.01.2020**
CORAM:
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
W.P(MD)No.25610 of 2019

M.Mandirammal ... Petitioner

Vs.

1.The Commissioner,
Palani Municipality,
Palani.

2.Chinnasamy
3.Nandiadi Swamigal Madam,
Rep through its Madathipathi,
Sathu Shanmuga Adigal
Arul Jothi Street,
Adivaram,Palani Town,
Dindigul District. ... Respondents
(R3 impleaded vide order of this Court dated 07.01.2020 in W.M.P.(MD).No.23545 of 2019)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to transfer property tax in the petitioner's name for assessment number 12579 for her house in D.No.13, Madhanapuram, Ward No.27, Palani Municipality by cancelling the 2nd respondent's name for the said property based on her representation dated 18.10.2019.

For Petitioner: Mr.T.Selvam
For R1 : Mr.Lourdu Paul Maurya
For R3 : Mr.M.Muthugeethayan
(newly impleaded)

ORDER

Heard Mr.T.Selvam, learned counsel appearing for the petitioner, Mr.Lourdu Paul Maurya, learned counsel appearing for the first respondent and Mr.M.Muthugeethayan, learned counsel for the newly impleaded third respondent.

2.This writ petition has been filed seeking for issuance of a writ of Mandamus, directing the first respondent to transfer the property tax in the petitioner's name for assessment number 12579 for her house in D.No.13, Madhanapuram, Ward No.27, Palani Municipality by cancelling the second respondent's name for the said property, based on her representation dated 18.10.2019.

3.According to the petitioner, he is residing at D.No.13, Madhanapuram, Ward No.27, Palani Municipality and he is in possession and enjoyment of the said property for the past 6 years.

4.The learned counsel for the first respondent has produced a copy of the proceeding, dated 24.07.2013, as per which, the property tax assessment was changed in the name of the petitioner. Thereafter, there was an objection from the third respondent and after obtaining legal opinion, the Municipality has transferred the tax assessment in the name of Mutt on 27.02.2015. The said order is not challenged. In the mean while, the petitioner had filed W.P.(MD).No.13402 of 2015 and W.P.(MD).No.16451 of 2015 seeking a writ of mandamus to direct the Village Administrative Officer to delete the name of Madathipathi in the patta and other revenue records and insert the petitioner's name in the patta as well as other revenue records in Survey No.841/1 situated at Ward No.4, Block No.16, to the extent of 22504 sq.ft., Palani Town. The said writ petitions were dismissed on 29.03.2016 as the cancellation sought for by the writ petitioner is specifically dismissed, since it is only a registration of first appellate Court decree and the same cannot be cancelled.

5.In the mean while, there are civil suits between the parties O.S.No.108 of 1997 filed by the alleged predecessor of the petitioner herein for permanent injunction, O.S.No.176 of 1997 was filed by one Dr.AT.Ramaiah, through power of attorney against Mutt for injunction and O.S.No.208 of 1997 was filed by the Mutt, for declaration of title and permanent injunction, on the file of the Principal District Munsif Court, Palani. All the suits were dismissed on 20.02.2004. Aggrieved over the same, the Mutt had preferred appeals in A.S.Nos.12 and 14 of 2004 in Cross Appeal No.14 of 2004. The said appeals were allowed and the suit was decreed in favour of the Mutt and it is stated that there is no further appeal against the same. As already the Civil Court has declared the right and title of the plaintiff and there is an injunction against the predecessor of the petitioner, the same is binding on the petitioner. In fact, the petitioner has not even averred in the affidavit filed in support of the writ petition as to how she derived the title and now, she is entitled for transfer with respect to the assessment of property tax.

6.It is also pointed out by the learned counsel for the Mutt that the specific performance suit was filed by the husband of the petitioner against her and an exparte decree was obtained fraudulently. It appears that the petitioner has title over the property. The proceeding of the first respondent dated 27.02.2015 changing the name in favour of the Mutt is not challenged so far by the petitioner. Instead of challenging the said order, writ of mandamus is now sought for to transfer the property tax in her name.

7.From the above, it is clear that the attitude of the petitioner is only to obtain the property by hook or crook, without having any title. When the petitioner does not have any right or title over the property and already the assessment order was issued in the name of the Mutt, the petitioner has got no right as the relief sought for is to transfer the property tax in her name. Hence, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020
Sub Assistant Registrar(CS)

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To:

The Commissioner,
Palani Municipality,
Palani.

+1 CC to M/s.M.MUTHUGEETHAYAN, Advocate (SR-497[F] dated 07/01/2020
+1 CC to M/s.L.P.MAURYA, Advocate (SR-756[F] dated 08/01/2020)
+1 CC to M/s.T.SELVAN, Advocate (SR-1152[F] dated 09/01/2020)

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07.01.2020

SMA/04/02/2020/3P/5C