IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2021

CORAM:

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P. No. 8644 of 2018

B.Suresh ... Petitioner

Vs.

1.The Commissioner,
Chennai Corporation, Chennai.

2.Assistant Executive Engineer,
Office of the zone 10
Chennai Corporation
NSK Salai, Chennai.

3.L.Sumathay

4.The District Collector,
Chennai District. ... Respondents
(Fourth respondent has been impleaded
vide order of this Court dated 06.08.2021)

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus to direct the respondents to include the petitioner's name in Property Tax Register by making necessary change in respect of the property tax bill No.10-127-09079-000, Old Bill No.05-065-0642-082 in respect of the property situated in No.35(21) Semathamman Nagar, Semathamman Nagar Sector III, Koyambedu, Chennai 600 107 by considering the petitioner's representation dated 22.12.2007 and 15.03.2018 within a time frame fixed by this Court.

For Petitioner : Ms.G.V.Seethalakshmi
For Respondent : Ms.Karthigaa Ashok for R1 and R2
No appearance for R3

ORDER

The relief sought for in the present writ petition is to direct the respondents to include the petitioner's name in Property Tax Register by making necessary change in respect of the property tax bill No.10-127-09079-000, Old Bill No.05-065-0642-082 in respect of the property situated in No.35(21) Semathamman Nagar, Semathamman Nagar Sector III, Koyambedu, Chennai 600 107 by considering his representations dated 22.12.2007 and 15.03.2018.

2.The petitioner states that he is the permanent resident of the address stated in the affidavit filed in support of the writ petition. The property tax was assessed by the respondent Chennai Corporation and the tax was paid regularly. The property tax assessment was originally stood in the name of the father of the petitioner late Sri M.Balaraman. After his demise, the property was vested with the petitioner. However, the name transfer was effected in favour of the third respondent, who is the sister of the writ petitioner. In this regard, the petitioner states that the third respondent had filed an injunction suit before the learned III Assistant City Civil Court in O.S.No.2556/2017. Thus, the petitioner states that the property tax assessment is to be transferred in his name.

3. The learned counsel for the respondents 1 and 2 made a submission that the petitioner has not produced any title documents to establish the ownership, however, based on the property tax assessment made in favour of the father of the writ petitioner. However, it was transferred in the name of the third respondent only on the ground that the settlement was effected within a period of one year. In this regard, the respondent has stated the facts in Paragraph No.4 of the counter affidavit, which reads as under:

> "It is submitted that the subject property was originally assessed in the name of Mr.Balaraman for years together. By an application dated 09.09.2017, the 3rd respondent had requested to carry out transfer in the Assessment, reasoning that her Father Balaraman/the assessee had died on 27.03.2007, the name transfer had been carried out after the site inspection and on perusal of the Death Certificate Balaraman produced by the 3rd respondent."

If at all there is any dispute, it is to be resolved between the petitioner and the third respondent as far as the property is concerned. The Corporation came to understand that the petitioner's father encroached the property in Koyambedu and the petitioner and the third respondent are claiming rights in respect of the encroached portion of the property, which belongs to the Government.

4. The original encroacher seems to be the father of the writ petitioner and the third respondent. After his demise, the petitioner and the third respondent are fighting each other to get possession of the encroached property. The petitioner could not be able to produce any documents to establish the title or ownership. The suit was also filed for injunction and not for title declaration admittedly. Under those circumstances, ***the District Collector, Chennai District is suo motu impleaded for the purpose of conducting an inspection*** and find out the status of the property within the possession of the petitioner or the third respondent and accordingly initiate steps, if it is identified as the Government property and the petitioner and the third respondent are encroachers. Such an action is to be initiated under the provisions of the Tamil Nadu Land Encroachment Act, 1905.

5. Koyambedu is now utilised for public purposes, as Central Bus Stand is functioning. Therefore, encroachments cannot be allowed in such valuable and important property. If at all any encroachments are there in and around the said locality, the Collector has to conduct an inspection through the authorities and evict the encroachers and utilise the land for the public purposes. This being the principles to be followed, this Court is of the opinion that the relief as sought for in the present writ petition cannot be granted, as the petitioner has not established even a semblance of legal right for the purpose of considering the writ petition. Accordingly, the writ petition stands dismissed. However, the District Collector, Chennai District, is directed to conduct an inspection in respect of the subject property at No.35(21) Semathamman Nagar, Semathamman Nagar Sector III, Koyambedu, Chennai 600 107 and initiate appropriate action by following the procedure contemplated in accordance with law. No costs.

06.08.2021

Index : Yes/No
Internet : Yes
Speaking Order/Non-speaking Order
RR

To
1.The Commissioner,
Chennai Corporation
Chennai.

2.Assistant Executive Engineer,
Office of the zone 10
Chennai Corporation
NSK Salai
Chennai.

3.The District Collector,
Chennai District
Chennai-1

S.M.SUBRAMANIAM, J.

RR

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