IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.21369 of 2021

M.Maniammal ... Petitioner

Vs

1.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai - 600 003.

2.The Zonal Officer,
Zone VII, Greater Chennai Corporation,
Formerly Ambattur Municipality,
Thiruvalluvar High Road,
Opp Dunlop, Chennai - 600 053.

3.The Revenue Officer,
Zone VII, Greater Chennai Corporation,
Formerly Ambattur Municipality,
Thiruvalluvar High Road,
Opp Dunlop, Chennai - 600 053.

4.Inbavalli ...Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the third respondent herein to cancel the property tax assessment made in the name of the fourth respondent herein considering the petitioner's representation dated 19.08.2021 on merits and in accordance with law.

For Petitioner : Ms.N.Devi
For Respondents: Ms.S.Vaitheeswari
Standing Counsel for R1 to R3

ORDER

Captioned writ petition has been filed with a mandamus prayer and the mandamus is qua third respondent to cancel the property tax assessment made in the name of the fourth respondent.

2.The fourth respondent is none other than the writ petitioner's sibling. The case of the writ petitioner is that she had let out the property that is subject matter of captioned writ petition to her younger sister (fourth respondent) and had thereafter gone to her native place to take care of her ailing mother-in-law and taking advantage of her absence, the fourth respondent had put up a superstructure. This is captured in paragraphs 2 and 3 of the writ affidavit which read as follows:

> '2.I submit that the said property was let out for rent to my younger sister, the 4th respondent herein. The said property was assessed to tax and as such the property tax and water tax are assessed in the name of my husband Mr.K.Murugesan. I am paying the taxes regularly without any default. I have paid the local taxes as demanded by the 3rd respondent Corporation till the assessment year 2020-2021 on 13.10.2020. In the ongoing COVID pandemic situation and with a necessity to take due care of my 90 years old mother-in-law, I had left to my native town Ariyalur during the pandemic time with a trust that the fourth respondent would take due care of my property. On account of my mother-in-law's bodily weakness, my stay at Ariyalur got extended.
>
> 3.I submit that I returned to Chennai and I approached the 4th respondent for collecting the rent amounts that were unpaid during the entire period of my stay at Ariyalur, which had a great shock inviting me. The 4th respondent, being my tenant had demolished the old building and had managed to put up a new superstructure in the place where the old structure existed. It is pertinent to state that it were the premises where the 4th respondent entrusted with in the capacity of a tenant. I raised my objections with regard to the illegal act of the 4th respondent taking a serious note of the illegal and unauthorised construction. The 4th respondent stood in a different attitude highly bent upon to illegally grab my property and had spoke harsh and unparliamentary words against me. The 4th respondent has no title deed whatsoever so as to claim her ownership to my subject property.'

3.Ms.N.Devi, learned counsel for writ petitioner submits that notice to fourth respondent has since been issued, though it has not been placed before me as part of case file. Learned counsel submits that the notice is inter alia for recovery of possession.

4.From the averments contained in paragraphs 2 and 3 of the writ affidavit (extracted and elaborated supra), it will be evident that this is a matter which has to be taken up by way of civil suit and the writ petitioner will do well to pursue the notice which is said to have been issued i.e., notice inter alia for recovery of possession and file a civil suit.

5.This being an issue between the siblings who also have a contractual relationship of lessor-lessee (besides the blood relationship of siblings), it is best left to civil Court to decide the matter considering the factual issues involved.

6.As far as the property tax is concerned, such litigation between siblings cannot be a ground to deprive the local authority of the property tax which is entitled to levy and collect the same.

7.Captioned writ petition is disposed of as closed leaving open the right of the writ petitioner to pursue the civil suit. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Commissioner,
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Chennai - 600 003.

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+1 CC to M/s.N. Devi, Advocate sr 51923.

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KSM(CO)
SP(09/11/2021)