IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No. 25859 of 2021
and
W.M.P.No.27337 of 2021

1. N.K.Anand

2. N.K.Amarnathan ... Petitioners

-vs-

1. The Assistant Commissioner,
Hasthampatty Ward Office,
Salem Corporation,
Hasthampatty, Salem – 7.

2. The Revenue Inspector,
Hasthampatty Ward Office,
Salem Corporation,
Hasthampatty, Salem – 7.

3. The Assistant Revenue Inspector,
Hasthampatty Ward Office,
Salem Corporation,
Hasthampatty, Salem – 7.

4. The Revenue Assistant,
Hasthampatty Ward Office,
Salem Corporation,
Hasthampatty, Salem – 7

5. P.P.Chandrasekar ...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent in his order dated in T.R.No.J13/104/2020 dated 07.09.2021 and quash the same and direct the first respondent to change the name in the property tax (No.2095034) and water tax receipt (No.2020547) to ward No.G, Block No.07, D.No.94, Achuraman Street, Sevvapettai, Selam – 2 in T.S.No.77 extent of 545 Sq.Ft of land with building belongs to the petitioners.

For Petitioners : Mr.SP.Yuaraj

For Respondents : Mr.T.Arioli for Mr.S.Sathish
Standing Counsel for R1

Mrs.V.Yamunadevi
Special Government Pleader
for R2 to R4

ORDER

The prayer sought for herein is for a writ of Certiorarified Mandamus calling for the records of the first respondent in his order dated in T.R.No.J13/104/2020 dated 07.09.2021 and quash the same and direct the first respondent to change the name in the property tax (No.2095034) and water tax receipt (No.2020547) to ward No.G, Block No.07, D.No.94, Achuraman Street, Sevvapettai, Salem - 2 in T.S.No.77 extent of 545 Sq.Ft of land with building belongs to the petitioners.

2. The property in Door No.94, Achuraman Street, Sevvapettai, Salem - 2, under the respondent Municipal Corporation originally belonged to the grandmother of the petitioners, from whom, by way of a document of Will, it seems that the petitioners' mother one Meena, inherited the property and in whose name the property tax has been assessed for the said property and thereafter, the said Meena i.e., the mother of the petitioners bequeathed the settlement deed in favour of the petitioners, who are none other than the sons of the said Meena and by virtue of that settlement, the petitioners have become the owners of the property. Therefore, in that capacity, the petitioners had requested the respondent Corporation to change the name of the owners of the property in the property tax register in favour of the petitioners and the same having been considered, was rejected through the impugned order dated 07.09.2021. Challenging the same, the present writ petition has been filed before this Court.

3. Heard Mr.S.P.Yuvaraj, learned counsel for the petitioner who, would submit that, originally the property belonged to the grandmother of the petitioners from whom the property was inherited by the mother of the petitioners by way of a will executed by the grandmother of the petitioners, who is none other than the mother of the petitioners' mother. Therefore, that change having been accepted by the respondent Corporation, they changed the property tax assessment in the name of the petitioners' mother, from whom now the property has been settled in the name of the petitioners, they are entitled to change of name in their names in the property tax register. Therefore, when such a request was made, since the same has been rejected based on the alleged objection given by the fifth respondent,

who is none other than the brother of the mother of the petitioners, he has no right to make such a claim. Therefore, the reason cited in the impugned order that the parties should approach the civil Court to get a declaration, is far stretch of the legal approach to be adjudicated in this regard for the purpose of assessing the property in question in the name of the petitioners for payment of property tax.

4. Per contra, Mrs.V.Yamunadevi, learned Special Government Pleader appearing for respondents 2 to 4, on instructions, would submit that, insofar as the plea received from the petitioners to change the name in the property tax document in favour of the petitioners, having been considered and rejected or directed the petitioners to approach the Civil Court to get a declaration order, because there was objection by the fifth respondent, who claimed that he is the legal heir of the original owner ie., the grandmother of the petitioners, from whom he inherited the property. Therefore, on that pretext, since he made an objection, that issue can only be resolved by a civil Court. Therefore, at this juncture, the plea of the petitioners cannot be considered. Accordingly, the impugned order has been passed and the learned Special Government Pleader submits that, the order is to be sustained.

5. I have considered the said submissions made by the learned counsel for both sides and in view of the order going to be passed in this writ petition, notice to the fifth respondent is hereby dispensed with.

6. From the original owner ie., the grandmother of the petitioners, the property has come to the petitioners' mother by way of a Will and that transaction, having been accepted by the respondent Corporation, they made change in the name of the petitioners' mother. When that being so, the said Meena being the owner of the property in whose name the property has been assessed for property tax, has made a settlement in favour of the petitioners, who are none other than the sons of the said owner of the property ie., Meena.

7. When that being so, based on such document, the respondent Corporation can very well consider the plea of the petitioners. In this regard, if at all any objection has been raised by the fifth respondent that, he was one of the legal heirs of the grandmother of the petitioners, that issue can be adjudicated by the fifth respondent only before the competent Civil Court. Therefore, at this juncture the plea raised by the petitioner can very well be considered by the respondent Corporation as the petitioners claimed to have inherited the property by way of settlement from their mother in whose name the respondent Corporation has assessed the property tax.

8. In that view of the matter, the reason stated in the

impugned order cannot be sustained. Accordingly, the impugned order is liable to be interfered with.

9. In the result, the following order is passed.

(i) That the impugned order is quashed. The matter is remitted back to the respondent Corporation for re-consideration and while reconsidering the same, notice shall be issued to both the petitioners as well as the fifth respondent and after giving them an opportunity of being heard, the issue shall be decided as indicated above and accordingly final orders shall be passed thereon, within a period of six weeks from the date of receipt of a copy of this order.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

rap/kst

To

1. The Assistant Commissioner,
Hasthampatty Ward Office,
Salem Corporation,
Hasthampatty, Salem - 7.

2. The Revenue Inspector,
Hasthampatty Ward Office,
Salem Corporation,
Hasthampatty, Salem - 7.

3. The Assistant Revenue Inspector,
Hasthampatty Ward Office,
Salem Corporation,
Hasthampatty, Salem - 7.

4. The Revenue Assistant,
Hasthampatty Ward Office,
Salem Corporation,
Hasthampatty, Salem - 7

+1cc to Mr.S.P.Yuaraj, Advocate, S.R.No.6998

W.P. No. 25859 of 2021

SPD(CO)
SB(11/02/2022)