



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.687 of 2021

T.Kannan @ Kamalakannan ... Appellant/3rd Respondent

Vs.

1.K.Anitha ... 1st Respondent/Petitioner

2.The Commissioner,
Avaniyapuram Municipality,
Avaniyapuram,
Madurai District.

3.The Executive Officer,
Avaniyapuram Municipality,
Madurai. ... 2nd & 3rd Respondents/1st & 2nd Respondents

Prayer:- Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.(MD)No.5713 of 2011, dated 01.10.2020.

Prayer in WP(MD). 5713 of 2011 :

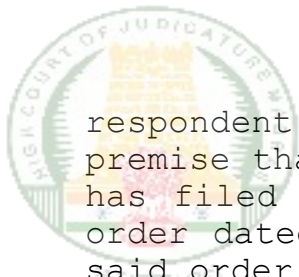
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus by calling for the records of the order passed by the 2nd respondent in Na.Ka.No. 714/2011/A3 dated 04/05/2011 and quash the same consequently direct the 2nd respondent to accept the house tax payable by the petitioner.

For Appellant : Mr.T.R.Subramanian

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

The appellant is respondent No.3 before the learned Single Judge. Respondent No.1/writ petitioner filed a suit in O.S.No.77 of 2011 before the District Munsif Court, Madurai, seeking to declare the Gift Settlement Deed, bearing Document No.6167/2008, dated 09.06.2008, executed by the appellant as null and void and injunction. Respondent No.3 herein, vide his letter in Na.Ka.No.714/2011/A3, dated 04.05.2011, declined the request made by



respondent No.1 for entry of her name in the Property Tax on the premise that a civil suit is pending, against which, respondent No.1 has filed W.P.(MD)No.5713 of 2011. The learned Single Judge, vide order dated 01.10.2020, allowed the Writ Petition. Challenging the said order, the present Writ Appeal is filed.

WEB COPY

2.The appellant is the husband of respondent No.1. It appears that he settled the property, which is subject matter of the Writ Petition, in favour of respondent No.1. Thereafter, by way of Cancellation Deed, the settlement deed was cancelled. This was put into challenge by respondent No.1 in O.S.No.77 of 2011. The said suit was decreed on 21.12.2017, against which, the appellant filed A.S.No.16 of 2018 before the Subordinate Court, Madurai. The said appeal was dismissed for default. Taking note of the above said facts, the learned Single Judge allowed the Writ Petition while reserving the right of the appellant in the pending civil proceedings.

3.The learned counsel appearing for the appellant submitted that the appeal has been restored and divorce proceedings are pending.

4.We do not find any reason to interfere with the order of the learned Single Judge, dated 01.10.2020. Any mutation will not create title. Title has to be decided by the Civil Court. As on today, the decree of the Civil Court stands. In the event of the appellant's appeal being allowed, certainly, he can ask for change of mutation of the property in question in his favour. The learned Single Judge himself has observed so.

5.In such view of the matter, we do not find any reason to interfere with the order passed by the learned Single Judge, dated 01.10.2020, made in W.P.(MD)No.5713 of 2011. Accordingly, this Writ Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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,
Avaniyapuram Municipality,
Avaniyapuram,
Madurai District.

2.The Executive Officer,
Avaniyapuram Municipality,
Madurai.

+1 CC to M/s.T.R.SUBRAMANIAN, Advocate (SR-13551[F] dated
25/03/2021)

W.A. (MD) No. 687 of 2021
25.03.2021

TP (CO)
TR(23.04.2021) 3P 4C