BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **27.07.2021**

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.12515 of 2021

Rengaraj ... Petitioner

Vs.

1.The Assistant Director of Town Panchayats,
Trichy Zone,
Trichy District.

2.The Executive Officer,
Kallakudi Selection Grade Town Panchayat,
Trichy District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2nd respondent to consider the representation of the petitioner, dated 26.03.2021 and cancel the property tax assessment in the name of R.Govindaraj and enter the property tax assessment in the name of the petitioner in respect of the property bearing Door Nos.14-F, 14-G, 14-H, 14-I comprised in Survey Nos.102/18 and 102/19 situated at Kallakudi Town Panchayat, Lalgudi Taluk, Trichy District, within the time limit that may be fixed by this Court.

For Petitioner : Mrs.J.Maria Roseline
For Respondents : Mr.P.Thilak Kumar
Govt.Advocate

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Mandamus, to direct the 2nd respondent to consider the representation of the petitioner, dated 26.03.2021 and cancel the Property Tax Assessment in the name of R.Govindaraj and enter the Property Tax Assessment in the name of the petitioner in respect of the property, bearing Door Nos.14-F, 14-G, 14-H, 14-I, comprised in Survey Nos.102/18 and 102/19, situated at Kallakudi Town Panchayat, Lalgudi Taluk, Trichy District.

2. The brief facts of the case are as follows:-

(i) The petitioner's father Pitchai Naidu had purchased the land admeasuring an extent of 4 cents in Survey no. 102/18 and land measuring an extent of $8\text{-}^{1}/_{2}$ in Survey No. 102/19, situated at Kallakudi Town Panchayat, vide registered sale deed, dated 19.11.1959, from one Chinnasamy Udayar. Subsequently, in the year

1965, the said Pitchai Naidu purchased another 2 cents of land in Survey No.102/18 and another 1 cent of land in Survey No.102/19 vide registered sale deed, dated 02.10.1965 from one Ponnusamy vagaira. Subsequent to the above referred two transactions, the petitioner's father had become absolute owner of the landed property admeasuring an extent of 15-1/2 cents, comprised in Survey Nos.102/18 and 102/19, situated at Kallakudi Town Panchayat, Lalgudi Taluk, Trichy District.

(ii) Consequent to the afore mentioned two sale deeds, the petitioner's father Pitchai Naidu had put up a construction in the property purchased by him and had built 10 houses with tiled roof. The door numbers of the said 10 houses are 14-A, 14-B, 14-C, 14-D, 14-E, 14-F, 14G, 14-H, 14-I and 14-J. The Property Tax assessment stood in the name of the petitioner's father Pitchai Naidu and the petitioner's father was paying the Property Tax in respect of all the ten houses during his lifetime.

(iii) When the tax assessment in respect of all the ten houses stood in the name of the petitioner's father Pitchai Naidu, the 2nd respondent without issuing any notice to the petitioner and behind his back, had changed the Property Tax assessment in respect of Door No.14-F, 14-G, 14-H and 14-I, in favour of one R.Govindaraj, who is in no way related to the property in issue. Except the fact that the said R.Govindaraj is the brother of petitioner's father Pitchai Naidu, he has no right whatsoever in the property purchased by the petitioner's father.

(iv) When the petitioner approached the 2nd respondent seeking details under the Right to Information Act about the mutation of tax assessment in favour of the said R.Govindaraj, the 2nd respondent, vide its communication in Na.Ka.No.284/2020/A3, dated 20.11.2020 gave an evasive reply stating that the details sought for by the petitioner are not available in the office entries and therefore, the same could not be furnished to the petitioner.

3. The learned counsel appearing for the petitioner would state that the act of the 2nd respondent in effecting mutation of tax assessment in respect of petitioners property without issuing notice to the petitioner is ex-facie illegal, unjust and arbitrary and in violation of principles of natural justice. The 2nd respondent had refused to divulge the details pertaining to the order effecting mutation of tax assessment in the name of said R.Govindaraj. Therefore, the petitioner has submitted a representation, dated 26.03.2021, seeking the 2nd respondent to restore the tax assessment in the name of the petitioner and stating his objections to the mutation of tax assessment in the name of said P.R.Govindaraj. When the title deeds and revenue documents pertaining to the property in issue stands in the name of Pitchai Naidu, it is not understandable as to on what basis the 2nd respondent had changed the tax

assessment.

4. It is further contended by the learned counsel appearing for the petitioner that the act of the 2nd respondent in sitting over the complaints preferred by the petitioner regarding mutation of tax assessment in favour of the said R.Govindaraj, in respect of the petitioner's property is ex-facie illegal and in violation of statutory duties imposed on the 2nd respondent, under Tamil Nadu District Municipalities Act, 1920. Further, the petitioner, in support of his submission, relied on the copy of the sale deeds, dated 09.12.1959 and 02.10.1965, executed in favour of the petitioner's father Pitchai Naidu; 10(1) Chitta extract for the property comprised in Survey Nos.102/18 and 102/19 and the information furnished to the petitioner under the RTI Act, dated 27.11.2020. The petitioner, in this regard, has also sent a representation, dated 26.03.2021, to the respondents.

5. The learned Government Advocate appearing for the respondents would submit that the petitioner's representation dated 26.03.2021 will be considered within the time frame to be stipulated by this Court.

6. The Court heard the submissions made by the learned counsels appearing on either side and perused the materials available on record.

7. The learned counsel appearing for the petitioner would submit that though the petitioner has come forward with a larger prayer as referred to above, the petitioner has now confined his prayer only to the extent of considering his representation, dated 26.03.2021, within the time frame to be stipulated by this Court.

8. Accordingly, the 2nd respondent is directed to dispose of the representation of the petitioner, dated 26.03.2021, on merits, and in accordance with law, after affording an opportunity of hearing to the petitioner and aggrieved persons, if any, within a period of 12 weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MPK

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 Assistant Director of Town Panchayats,
Trichy Zone,
Trichy District.

2.The Executive Officer,
Kallakudi Selection Grade Town Panchayat,
Trichy District.

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PM (CO)
LR (04.08.2021) 4P 3C