BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **04.08.2021**
CORAM
THE HON'BLE MR.JUSTICE R.SURESH KUMAR
W.P.(MD)No.13361 of 2021

N.Sharmila ... Petitioner

Vs.

The Commissioner,
Tiruchirappalli City Municipal Corporation,
No.58, Bharathidasan Salai,
Cantonment,
Tiruchirappalli - 1. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondent to mutate in the petitioner's name the property tax assessment in respect of the petitioner's property admeasuring 3,400 square feet in T.S.No.5 and 10, Ward M, (56), Block No.14, Thillainagar Main Road, Tiruchirappalli without demanding property tax dues in respect of the entire land admeasuring 6,800 square feet in the aforesaid survey numbers commencing from the year 1976, by considering the representation of the petitioner dated 14.06.2021.

For Petitioner : Mr.M.Mahaboob Athiff
for M/s.Ajmal Associates

For Respondent : Mr.Kishore Ram for
Mr.R.Baskaran,
Standing Counsel

ORDER

The prayer sought in this Writ Petition is for a Writ of Mandamus, to direct the respondent to mutate the petitioner's name in the property tax assessment in respect of the petitioner's property, admeasuring 3,400 square feet in T.S.No.5 and 10, Ward M, (56), Block No.14, Thillainagar Main Road, Tiruchirappalli without demanding property tax dues in respect of the entire land admeasuring 6,800 square feet in the aforesaid survey numbers commencing from the year 1976, by considering the representation of the petitioner, dated 14.06.2021.

2.The property at T.S.No.5 and 10, Ward M, (56), Block No.14, Thillainagar Main Road, Tiruchirappalli, originally belongs to four persons, namely, Zaheer Ahmed, Fayaz Ahmed, Nissar Ahmed and Arif Ahmed, which comprised of 6800 sq.ft., land.

3.In order to partition among them, it seems that a civil suit in O.S.No.275 of 2004 was filed by them before the First Additional District Judge, Trichy, which came to be disposed of by compromise arrived between the parties sometime in the year 2008, according to which, two persons namely Zaheer Ahmed and Arif Ahmed, had been allotted 50% of the property, that is 3400 sq.ft., land. That 3400 sq.ft., land alone was purchased by the petitioner sometime in the year 2017. After purchasing the same, when the petitioner approached the respondent Municipal Corporation to pay property tax and to mutate the name in the property tax register in the name of the petitioner, it seems that the respondent Municipal Corporation had demanded the property tax, either for the entire property or atleast for the half property, which purchased by the petitioner in the year 2017 and according to the Municipal Corporation, the erstwhile owner had not been paying the property tax from 1976 onwards and therefore, the entire arrears were demanded from the petitioner.

4.Only in that circumstance, the petitioner had made a representation on 14.06.2021 to the respondent Municipal Corporation stating that if at all the property tax had to be paid by the erstwhile owners, the same since had been covered in the partition decree passed in the civil suit, the same cannot be demanded from the present owner, that is the petitioner. That is the one stand taken by the petitioner. The other stand taken by the petitioner is that insofar as the half of the property ie., 3400 sq.ft., which had been purchased by the petitioner, she is liable to pay property tax and that too only from the date when she purchased the property in the year 2017 or atleast from the year 2010. By making these points, the petitioner had given a detailed representation on 14.06.2021. However, the said representation since has not been considered by the respondent and no orders on the same since had been passed, the petitioner has approached this Court by filing this writ petition.

5.Mr.M.Mahaboob Athiff, learned counsel appearing for the petitioner, having reiterated the aforesaid would submit that atleast if the representation given by the petitioner dated 14.06.2021, is decided on merits and in accordance with law, the petitioner would be satisfied. However, without being considered the said representation, the respondent Municipal Corporation cannot go on insisting the petitioner to pay entire tax as claimed by them.

6.Contra to the same, Mr.Kishore Ram, learned Standing Counsel, who takes notice for the respondent, would submit on instructions that in the suit in O.S.No.1375 of 2002 on the file of II Additional District Munsif, Tiruchirappalli, filed by one Nizar, there has been an interim order of injunction restraining the respondent Municipal Corporation from collecting any property tax. That apart, the learned Standing Counsel appearing for the respondent would further submit that since the erstwhile owners of the property, that is the entire property of 6800 sq.fts, since have not paid the property tax right from 1976, the entire due has to be paid by them or by the petitioner to settle the entire dues of the erstwhile owners and they are also liable to pay the tax. Unless and until the entire tax is paid, the petitioner's plea to mutate the name of the petitioner in the property tax register cannot be made, he contended.

7. I have considered the rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

8. Insofar as the plea of the petitioner is concerned, she purchased only half of the property in the year 2017. Therefore, from that date, she is liable to pay property tax. Insofar as the earlier tax due if any from 1976 or from any other date as claimed by the respondent Municipal Corporation is concerned, it is the stand of the petitioner that she is not liable to pay the property tax. However, the stand of the respondent Municipal Corporation is that the erstwhile tax due also ought to have been paid by the erstwhile owners only and atleast for the part of the property purchased by the petitioner, the petitioner shall pay the same.

9. However, the said controversy cannot be resolved by this Court in this writ petition, at this juncture, however, this Court feels that whatever be the stand, that can be projected before the respondent and in this regard, representation of the petitioner dated 14.06.2021 can very well be considered by the respondent Municipality, on merits and in accordance with law and in this regard, whatever further inputs they want to get it from the petitioner shall be obtained and accordingly, orders can be passed thereon, on merits within the time to be stipulated by this Court.

10. In that view of the matter, this Court is inclined to dispose of this writ petition by passing the following order:

> that there shall be direction to the respondent to consider the representation of the petitioner dated 14.06.2021 and pass orders thereon, on merits and in accordance with law, after giving an opportunity of being heard to the petitioner and in this regard, it is open to the petitioner to submit further inputs or documents in support of the case of the petitioner. After hearing the petitioner as stated above, the needful as indicated shall be undertaken and final orders would be passed by the respondent Municipal Corporation, within a period of eight weeks from the date of receipt of a copy of this order.

11. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sm

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

The Commissioner,
Tiruchirappalli City Municipal Corporation,
No.58, Bharathidasan Salai,
Cantonment,
Tiruchirappalli - 1.

+1 CC to M/s.R.BASKARAN,M.L. Advocate (SR-25151[F] dated 04/08/2021)

W.P.(MD)No.13361 of 2021
Dated:**04.08.2021**

RK (25.08.2021) 4P 3C