BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.17754 of 2021

M.Kannan .. Petitioner

Vs.

1. The District Collector,
Madurai District,
Madurai.

2. The Block Development Officer,
Madurai East Panchayat Union,
Chinna Chokkikulam,
Madurai.

3. The Panchayath President,
Y. Pudupatti Panchayath,
Y.Pudupatti,
Madurai District.

4. Alagumalai .. Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent to collect house tax from the petitioner and issue house tax receipt in the petitioner's house situated at No 133A, Kottagaimedu, Y.Pudupatti Village, Madurai District based on the petitioner's representations, dated 20.04.2021, 22.06.2021, 04.08.2021 and 06.09.2021.

For Petitioner	:	Mr.M.Maran
For R1	:	Mr.R.Sureshkumar Government Advocate
For R2 & R3	:	S.Shanmugavel Government Advocate

ORDER

Prayer sought for herein is for a Writ of Mandamus, directing the 3rd respondent to collect house tax from the petitioner and issue house tax receipt in the petitioner's house situated at No.133A, Kottagaimedu, Y.Pudupatti Village, Madurai District, based on the petitioner's representations, dated 20.04.2021, 22.06.2021, 04.08.2021 and 06.09.2021.

2.That the petitioner, claims that he is a land less poor and a coolie and in the year 2016, he put up a hut in the natham land in the Survey No.45/5, to an extent of 897 sq.ft. at Kottagaimedu, Y.Pudupatti Village, Madurai District. In respect of the said structure put up by the petitioner, admittedly, in the natham poramboke land at Y.Pudupatti panchayat, the third respondent assessed the structure for the purpose of levying property tax and a property tax receipt also had been given.

3.In that context, when the petitioner approached the third respondent panchayat for collection of property tax for the said structure for the current year, it seems to have been refused by the 3rd respondent, ofcourse, by the fourth respondent, who is none other than the husband of the village President of the third respondent panchayat. Therefore, in this context, the petitioner has given representations on 20.04.2021, 22.06.2021, 04.08.2021 and 06.09.2021 to all the respondents. However, none of these representations since have yielded desired results, the petitioner has approached this Court by filing the present writ petition.

4.Heard Mr.M.Maran, learned counsel appearing for the petitioner, who would submit that, the land, admittedly, is a natham poramboke land, where the petitioner has put up structure and has been residing the property, which has already been assessed for one Assessment Year for the purpose of property tax by the third respondent panchayat and insofar as the claim of patta, as there has been an attempt made by the authorities to evict the petitioner in order to give patta to the third party, the petitioner had already approached the Melur Civil Court and filed a suit in O.S.No.117 of 2020 seeking for prohibitory orders and the said suit is also pending. Therefore, at this juncture, the inaction on the part of the third respondent panchayat at the behest of the fourth respondent in not levying property tax for the petitioner for the year 2021 is unjustifiable. Therefore, he seeks indulgence of this Court to issue a direction to the third respondent panchayat to issue the property tax receipt after collecting the same from the petitioner.

5.However, learned Government Advocate appearing for the respondents, on instructions, would submit that, since the property in question is a Government poramboke land, therefore, in this regard, since the petitioner already had filed the Civil suit, which is pending before the Civil Court, unless the Civil Suit is decided one way or other, at this juncture, the panchayat cannot levy any property tax on the structure of the petitioner, since admittedly has been put up in the Government poramboke land, therefore, on that ground, the plea of the petitioner orally was rejected. In this regard, the written instructions also received from the third respondent, dated 16.08.2021, have been filed before this Court.

6.That apart, a statement given by the Village Administration Officer concerned of the village stating that the land in question is a poramboke land, wherein the patta has been sought for various persons, out of whom, one Krishnan, S/o.Karuppaiah, was given patta in the proceedings of the Tahsildar concerned in Na.Ka.No.1756/2020/E2 and therefore, a third party right has been occurred on the land in question, where the petitioner, now claims property tax assessment for the structure he has put up and therefore, these issues can only be resolved by the Civil Court. Therefore, at this juncture, the petitioner is not entitled to get any property tax assessment, the learned Government Advocate contended.

7.However, in response to the same, the learned counsel appearing for the petitioner would submit that, recently the petitioner was able to get some RTI information, for which, the Tahsildar concerned has stated that, the land in question, where the petitioner has put up structure has not been given patta to any one. Therefore, the present statement said to have been made by the Village Administrative Officer concerned, quoting the proceedings as if that the pata has been given to a third party, that is, Krishnan, S/o.Karuppaiah, may be a wrong statement, therefore, on that ground, the petitioner seeks indulgence of this Court.

8.Having considered the said rival submissions made by the learned counsel appearing for the parties, and having gone through the documents, which were placed before this Court for consideration, this Court is of the view that, since the petitioner has already approached the Civil Court seeking certain civil remedies in respect of the property in question, it is an admitted case on the part of the petitioner that the land belongs to the Government as it is a Natham poramboke, whether it is a Natham Poramboke or other poramboke land, for which the petitioner is entitled to get the patta, based on which the structure, if any, put up by the petitioner, is capable of being levied property tax by the local panchayat cannot be resolved at this juncture, by this Court, in this writ petition.

9.The first action to be taken by the petitioner is to get a declaratory decree from the Civil Court, and if at all, any patta is given to any third party like one, Krishnan, S/o.Karupaiyya, as claimed by the revenue, in order to cancel the patta, it is open to the petitioner to approach the concerned Revenue Divisional Officer being the Appellate authority and without exhausting those procedure established under law, the petitioner cannot straight away seek a mandamus from this Court to be issued against the third respondent panchayat to levy property tax in respect of the structure put up by the petitioner in the disputed land.

10.Therefore, at this juncture, having taken into account, the afore-stated facts and circumstances, this Court is inclined to dispose of this writ petition with the following orders:

> "that it is open to the petitioner to persuade the Civil suit already been filed and it is pending before the Melur Court, where he can get any order and decree, in respect of his civil rights and also, it is open to the petitioner to challenge the patta, if any is issued in favour of any third party, in respect of the property in question, where the petitioner has put up structure, by making appropriate appeal or application before the Appellate authority."

11.However, in so far as the structure put up by the petitioner is concerned, it has been admitted by the respondents that, he has put up structure, that need not be interfered with, till the petitioner has got some relief from the Civil Court and thereafter, depending upon the outcome of the Civil Court decree as well as the order to be passed by the Appellate authority, if the petitioner approached the Appellate authority, in respect of the patta issued in favour of the third party, depending upon the outcome of those proceedings, the plea of the petitioner to assess the property in question for the purpose of property tax, can be undertaken by the third respondent.

12. With these observations and directions, this writ petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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 District Collector,
   Madurai District, Madurai.

2. The Block Development Officer,
   Madurai East Panchayat Union,
   Chinna Chokkikulam, Madurai.

3. The Panchayath President,
   Y. Pudupatti Panchayath,
   Y.Pudupatti, Madurai District.

+1 CC to M/s.SPL.GP (SR-30858[F] dated 01/10/2021)

W.P.(MD) No.17754 of 2021
30.09.2021

SAR(CO)
KB(17.11.2021) 5P 5C