BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.11.2021**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.19828 of 2021

S.Gopinath ... Petitioner

Vs.

1.The President,
Vilathurai Village Panchayath,
Kappukadu-post,
Kunnathoor Village,
Vilavancode Taluk,
Kanyakumari District.

2.S.K.Subashini ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the first respondent to make mutation and receive property tax in the name of the petitioner by considering the representation dated 18.10.2021, within the period that may be stipulated by this Court.

For Petitioner : Mr.V.H.S.Prathap
For R1 : Mr.M.Lingadurai
Special Government Advocate

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the first respondent to make mutation and receive property tax in the name of the petitioner by considering the representation dated 18.10.2021, within the period that may be stipulated by this Court.

2.The petitioner has purchased a land and house property at new Survey No.148/16 to the extend of 8.750 cents at Kunnathoor village, Vilathurai Village Panchayath with Door No.26/27, by way of a registered sale deed registered at the Sub-Registrar Office at Marthandam Joint II as Document No.2602 of 2020 from two persons, namely one Sundaram and Kalakumari in the year 2020. Since then, the petitioner has been in possession and enjoyment of the property and the patta has been changed accordingly in the name of the petitioner.

3.While so, the petitioner, in order to assess the property in question, for the purpose of property tax by mutating the name of the petitioner in the property tax Register available at the first respondent Panchayath, had attempted to make applications on 10.08.2021 and 13.10.2021. However, the said attempts failed, as the first respondent had not received the same and refused the same on the alleged ground that the second respondent, who is the daughter of one of the vendors, Sundaram, seems to have made objection, by sending a legal notice to the first respondent.

4.In view of the same, the petitioner had sent a request through registered post and the same also since has not been considered, he has given a representation dated 18.10.2021, to the first respondent to consider his application or request to assess the property in question in the name of the petitioner for the purpose of the property tax, on the strength of the sale deed, under which, the petitioner purchased the property from the lawful owners, namely, Sundaram and Kalakumari. Since the said representation has not been considered, the petitioner has moved this Writ Petition with the aforesaid prayer.

5.I have heard Mr.V.H.S.Prathap, learned counsel appearing for the petitioner, who having reiterated the aforesaid factual matrix would seek indulgence of this Court to issue a suitable direction to the first respondent Panchayath.

6.In view of the order, that is going to be passed in this Writ Petition, notice to the second respondent is hereby dispensed with.

7.Mr.Lingadurai, learned Special Government Advocate takes notice for the first respondent and he submits that, in view of the objection raised by the second respondent, who is none other than the daughter of the said Sundaram, one of the vendors of the petitioner, the request of the petitioner could not be considered. Anyhow, since he has made the application followed by the representation dated 18.10.2021, the same would be considered by the first respondent ofcourse by hearing both petitioner as well as objector, namely, the second respondent and accordingly, a decision would be taken in accordance with law as to whether the property in question can be assessed for the purpose of property tax.

8.I have considered the said rival submissions of the learned counsel appearing for the parties and have perused the materials placed before this Court.

9.In view of the aforesaid factual matrix, it is imperative that the petitioner claimed right over the property by way of the sale deed, which has been registered in the Sub-Registrar Office, under which, the property in question was purchased by the petitioner from the lawful owners.

10. When that being so, the second respondent, being daughter of one of the vendors of the petitioner if at all got any grievance with regard to the sale undertaken by the second respondent's father, her remedy would lie elsewhere and not before the first respondent to raise any objection preventing the first respondent being an authority under the Tamil Nadu Panchayat Act, 1994 to assess the property within the jurisdiction of that Panchayath, to assess the property tax and levy the same.

11. In that view of the matter, this Court feels that a direction can be given to the first respondent to consider the request of the petitioner including the representation dated 18.10.2021 and decide the same in accordance with law, of course after hearing the petitioner as well as the second respondent.

12. In the result, this Writ Petition is disposed of with the following order:

> that there shall be a direction to the first respondent to consider the representation of the petitioner dated 18.10.2021 and decide the same on merits and in accordance with law, by taking the views of the petitioner as well as the second respondent. However, the first respondent shall bear in mind that insofar as the claim made by the petitioner to have an assessment of the property in question for the purpose of property tax is concerned, that shall be decided by the first respondent, for which, if at all any objection comes from the second respondent, being the daughter of one of the vendors, from whom, the petitioner purchased the property, that objection may not overcome the claim made by the petitioner as owner of the property. In view of the clear sale executed in favour of the petitioner, which has been duly registered in the concerned Registrar Office, the first respondent shall accordingly decide the request of the petitioner as indicated above within a period of four weeks from the receipt of copy of this order.

13. With these directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (A.D II)

// 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

The President,
Vilathurai Village Panchayath,
Kappukadu-post,
Kunnathoor Village,
Vilavancode Taluk,
Kanyakumari District.

Order made in
W.P.(MD)No.19828 of 2021
02.11.2021

SR(CO)
RS/PM (19.11.2021) 4P 2C