IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.604 of 2022
and
W.M.P.No.657 of 2022

1.Vasantha

2.Janaki ...Petitioners

Vs.

1.The Commissioner,
Corporation of Chennai,
Chennai – 600003.

2.Revenue Officer,
Corporation of Chennai,
Chennai – 600 003.

3.Assistant Revenue Officer,
Zone – IX, 4th Cross Street,
Nungambakkam, Chennai – 600034.

4.P.Palani

5.P.Nagaraj ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct Respondents 1 to 3 to consider and pass orders on the petitioner's application dated 22.03.2021 to cancel the property tax assessment for the Assessment No./New Bill No. 09-110-05330 and Old Bill No.07-107-0347-003 issued to the 4th and 5th respondents for the property bearing Old Municipal Door No. 40, New No. 2, 2nd Street, Vaigundapuram, Nungambakkam, Chennai - 600034 comprised in survey No. 685/3, Block No. 36, Nungambakkam Division, Egmore - Nungambakkam Taluk, Chennai District and issue property tax assessment in the names of all the owners as per decree dated 12.01.2009 in O.S.No.7822 of 2007.

For Petitioner : Mr.J.Saravana Vel

For Respondents : Mrs.P.T.Ramadevi
Standing Counsel

O R D E R

The writ petition is filed for a direction to consider the application submitted by the writ petitioners on 22.03.2021 to cancel the property tax assessment.

2. The petitioners state that by way of settlement deed dated 11.10.2006, the entire property was settled by the petitioners' father, Thiru.T.Parasuramanm in favour of the respondents 4 and 5, by fraud, misrepresentaion and undue influence. The petitioners filed a civil suit in O.S.No.7822 of 2007 seeking preliminary decree of partition and the suit decreed in favour of the petitioners. Accordingly, the petitioners are entitled to get 1/5th share each and to get declaration that the settlement deed executed in favour of the respondents 4 and 5 is not binding on the petitioners.

3. The petitioners state that an appeal suit has been filed in A.S.No.971 of 2009 and same is pending. When the First Appeal is pending, the petitioners submitted an application to cancel the property tax assessment. Even in case the property tax assessment is to cancelled, the same must be undoubtedly subject to final decision in the appeal suit or further litigations, if any filed by the respective parties are pending.

4. In the event of issuing fresh assessment order during the pendency of the civil litigation, the authorities have to re-consider the application if any further appeal is filed against the Judgement in First Appeal.

5. Contrarily, all such assessment proceedings are kept in abeyance till the civil litigation reaches finality. Thereafter, either of the parties shall approach the competent authorities for the purpose of effecting transfer of name or to cancel propety tax assessment or otherwise.

6. Admittedly, civil litigation is pending between the parties now and the petitioners field the application basesd on the preliminary decree passed in the partition suit. The final decree in the suit is yet to be passed. The preliminary decree itself is under challenge before First Appellate Court in A.S.No.971 of 2009.

7. This being the factum, the respondents 1 to 3 are directed to maintain status quo and either of the party shall use the property tax assessment maintained by the corporation as a matter of right or otherwise. Only after reaching finality in the civil litigation either of the party may approach the authorities for the purpose of effecting necessary changes in the property tax assessment proceedings.

8. No revenue proceedings of the corporation shall be used by either of the parties for any purposes or for taking undue advantage of the same.

9. With these observations, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Kan/Jeni

To

1.The Commissioner,
Corporation of Chennai,
Chennai – 600003.

2.Revenue Officer,
Corporation of Chennai,
Chennai – 600 003.

3.Assistant Revenue Officer,
Zone – IX, 4th Cross Street,
Nungambakkam, Chennai – 600034.

+2 ccs to Mr.J.Saravanavel, Advocate Sr.NO. 3437
+1 cc to Mr.P.T.Ramadevi, Advocate Sr.NO. 3344

PL(CO)
A.SK(04.02.2022)