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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.6735 of 2022

and

W.M.P.No.6818 of 2022

1.R.P.Senthilkumar

2. R.Perumal

... Petitioners

Vs.

The Assistant Commissioner,
Ammapettai Division,
Salem City Municipal Corporation,
Salem-636 003.

... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings in Na.Ka.No.L16/3825/2021 dated 04.10.2021, on the file of the respondent herein, and to quash the same, and direct the respondent to enter and change the Assessment Register, in the name of the 1st petitioner pertaining to the properties assessed in the name of deceased K.Vennila, covered under the application dated 07.09.2021, within a time frame as may be fixed by this Honourable Court.

For Petitioners : M/s.Elizabeth Ravi

For Respondent : Mr.M.Muthusamy
Government Advocate

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records relating to the proceedings in Na.Ka.No.L16/ 3825/ 2021 dated 04.10.2021, on the file of the respondent herein, quash the same and direct the respondent to transfer the Assessment Register in the name of the 1st petitioner, pertaining to the properties assessed in the name of deceased K.Vennila, covered under the application dated 07.09.2021.

2. Mr.M.Muthusamy, learned Government Advocate takes notice for the respondent. In view of the consent expressed by the learned counsel appearing for either side, this petition is taken up for final disposal.



3. The case of the petitioners is that, 1st petitioner is the son of the 2nd petitioner. The land and the buildings as described hereunder, belonged to one, K.Vennila, mother of the 1st petitioner and the wife of the 2nd petitioner. The details of the said properties are described hereunder.

S.N	Door Number & Street	Assessment Number	Water Connection M.L.Number
1	No.16, Ranganatha Pillai Street, Kitchipalayam, Salem.	049/00964 (Old No.049/144048)	043/00964 (Old No.049 / 307 1980)
2	No.18, Ranganatha Pillai Street, Kitchipalayam, Salem.	049/00965 (Old No.049/144049)	043/00965 (Old No.049 / 307 1981)
3	21/16, (Old No.527), Sanyasi Gundu Extn, Erumapalayam Village, Kitchipalayam, Salem.	049/03181 (Old No.049/146266)	043/03181 (Old No.049 / 307 3425)
4	No.3, (Old Nos.71 & 72), Narayanan Nagar, 4 th Street, Kitchipalayam, Salem.	049/00396	042/00396 (Old No.042 / 004 27)

4. The said K.Vennila executed a Will dated 10.10.2003, registered as Document No.220 of 2003, on the file of the Joint Sub Registrar No.IV, Salem (West), under which, she bequeathed the entire schedule properties to and in favour of her son / 1st petitioner, by reserving the life interest of her husband / 2nd petitioner. Whiles, the 1st petitioner made a transfer application dated 07.09.2021 before the respondent along with the No Objection Affidavit sworn by his father / the 2nd petitioner, to incorporate his name in the Property Tax Receipts, however, the respondent vide his proceedings in Rc.No.L16/3825/2021 dated 04.10.2021, rejected the said application on the ground that, the transfer application will be considered only after the life time of the 2nd petitioner. Challenging the same, the present writ petition is filed.

5. The learned counsel appearing for the petitioners submits that, though the 1st petitioner's mother executed a will in his favour by reserving the life interest of the 2nd petitioner, the 1st petitioner made a transfer application dated 07.03.2021 along with the No Objection Affidavit made by the 2nd petitioner, for transfer of Property Tax Receipts to the 1st petitioner's name from the name of said K.Vennila. However, the respondent, without considering the said No Objection, has mechanically rejected the 1st petitioner's application simply on the ground



that, the transfer application will be considered only after the life time of the 2nd petitioner, which is not sustainable. Hence, prayed for appropriate orders.

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6. Heard the arguments advanced on either side.

7. This Court perused the No Objection Affidavit dated 02.09.2021 made by the 2nd petitioner and on perusal of the said No Objection, since the 2nd petitioner himself made a No Objection for entering the name of the 1st petitioner in the Property Tax Assessment Receipts, rejecting the transfer application of the 1st petitioner is not sustainable. In view of the above, this Court is inclined to set aside the impugned order dated 04.10.2021 passed by the respondent and the matter is remanded to the respondent and the respondent is directed to adjudicate the matter on merits after providing opportunity of hearing to the petitioners and transfer the Property Tax Assessment receipts to the name of the 1st petitioner, as the mere transfer of the Property Tax Assessment receipts to the name of the 1st petitioner does not mean that the 1st petitioner is the owner of the said properties and he is entitled to sell the property during the life time of the 2nd petitioner.

8. In view of the above observation, this Writ Petition is allowed. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

skt
To

The Assistant Commissioner,
Ammapettai Division,
Salem City Municipal Corporation,
Salem-636 003.

+1cc to M/s.Elizabeth Ravi, Advocate, S.R.No.20560
+1cc to the Government Pleader, S.R.No.20624

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MT(CO)
CT 19/04/2022