BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A.(MD)No.606 of 2010

P.R.Subramaniaraja ... Appellant/Appellant/Plaintiff

Vs.

Rajapalayam Municipality,
Through its Commissioner. ... Respondent/Respondent/Defendant

Prayer : Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree dated 27.01.2009 made in A.S.No.43 of 2005 on the file of the Subordinate Judge, Srivilliputhur, confirming the judgment and decree dated 28.12.2004 passed in O.S.No.242 of 2000 on the file of the Principal District Munsif, Srivilliputhur.

For Appellant : Mr.A.V.Arun
For Respondent : No appearance

JUDGEMENT

The unsuccessful plaintiff in O.S.No.242 of 2000 on the file of Principal District Munsif Court, Srivilliputhur is the appellant in this second appeal. The said suit was filed for declaring the revision property tax assessment made by the defendant/local body as null and void. Rajapalayam Municipality/defendant in the suit filed written statement controverting the plaint averments. Based on the divergent pleadings, the trial Court framed the necessary issues.

2.Evidence was adduced on either side. Exs.A1 to A4 and Exs.B1 to B19 were marked. After considering the evidence on record, the trial Court dismissed the suit by judgment and decree dated 28.12.2004. Aggrieved by the same, the plaintiff filed A.S.No.43 of 2005 before the Sub Court, Srivilliputhur. The first appellate Court by the impugned judgment and decree dated 27.01.2009 confirmed the decision of the trial Court and dismissed the appeal suit. Challenging the same, this second appeal came to be filed.

3.Though the second was filed way back in the year 2010, it has not been admitted till date and as only notice was ordered. The learned counsel for the appellant reiterated all the contentions set out in the memorandum of grounds and called upon this Court to frame substantial question of law and admit the second appeal and take it up for disposal later. There is no representation on the side of the respondent.

4.I carefully considered the contentions of the learned counsel for the appellant and also went through the evidence on record. No doubt as rightly contended by the learned counsel for the appellant, a civil suit of this nature is very much maintainable. But then, to obtain the relief of declaration, the plaintiff will have to show that the local body did not adhere to the statutory procedure while effecting revision of property tax. In this case, the Courts below have concurrently found that the statutory procedure was adhered to. The appellant was also put on notice before effecting revision. No substantial question of law arises for consideration. The decisions of the Courts below are confirmed and the second appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

1.The Sub Court,
Srivilliputhur.

2.The Principal District Munsif Court,
Srivilliputhur.

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The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
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