



W.P(MD)No.11186 of 2012

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.11186 of 2012

and

M.P(MD)No.1 of 2012

1.M.Pandiyam (Deceased)

2.P.Vasantham

3.B.Muneeswari

4.P.Alli

5.P.Sindhupriya

... Petitioners

(Petitioners 2 to 5 are substituted as LRs vide order of this Court dated 06.07.2022 passed in WMP(MD)No. 9789 of 2022 in W.P.(MD)No.11186 of 2012)

Vs.

1.The Commissioner,
Corporation of Madurai,
Aringar Anna Palace,
Madurai-625 002.

2.Philomeana (Died)

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3.R.Antonyraj

... Respondents

(R3 is impleaded as LR of the deceased 2nd respondent vide order of this Court dated 22.11.2022 passed in WMP(MD)No.13649 of 2017 in WP(MD)No.11186 of 2012)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the first respondent dated 30.07.2012 in kt1/04118/2012 and quash the same and forbearing the first respondent and its officials, men, agents, servants and persons claiming under the first respondent from evicting the petitioner from the property bearing Door No.7-C, Chairman Muthuramaier Road, Madurai Corporation, Madurai.

For Petitioner : Mr.R.Sundar Srinivasan

For R1 : Mr.R.Murali

For R2 : Died

For R3 : No appearance

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein, under which, the property tax assessment standing in the name of the writ petitioner was cancelled and it was restored in the name of the first respondent.



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2. According to the learned Counsel appearing for the writ petitioner, the property in dispute was allotted under a lease cum sale agreement to the second respondent, who is an employee of the first respondent Corporation. The said second respondent has given the possession of the property to the writ petitioner and after alienation, the property tax assessment was transferred in the name of the writ petitioner. However, without any notice, the first respondent has cancelled the said assessment and has reverted to the name of the first respondent herein. Hence, the present writ petition.

3. According to the learned Counsel appearing for the writ petitioner, the second respondent is the owner of the property and the writ petitioner has purchased the same under a registered sale deed. Hence, they are entitled to transfer of assessment in their name.

4. Per contra, the learned Counsel appearing for the first respondent submits that the property was allotted to the second respondent only on lease cum sale agreement and so far, no sale deed was executed in favour of the second respondent and the question of the



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the second respondent executing the sale deed in favour of the writ petitioner does not arise.

5. Only in view of the said facts, the property tax assessment was cancelled and restored to the Commissioner Corporation.

6. Though the proposed third respondent has been served, there is no representation on his side.

7. In view of the above said fact, it is clear that originally, the Corporation has accepted the transfer effected by the first respondent in favour of the writ petitioner and also the effected transfer of assessment in favour of the writ petitioner. It is also an admitted fact that the impugned order has been passed by the first respondent without notice to the writ petitioner.

8. In view of the above said facts, the order impugned in the writ petition is set aside. The matter is remitted back to the file of the first respondent herein and the first respondent is directed to consider the issue afresh and pass orders on merits and in accordance with law after



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giving due opportunity to the writ petitioner and the legal heir of the second respondent.

9. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

22.11.2022

Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR ,J.

csn

Order made in
W.P(MD)No.11186 of 2012
and
M.P(MD)No.1 of 2012

Dated: 22.11.2022