



W.P.(MD)No.11770 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.11770 of 2020

and

W.M.P.(MD)Nos.10208 and 10209 of 2020

Kanagaraj

... Petitioner

Vs.

1. The Assistant Commissioner,
Thoothukudi Municipal Corporation,
Thoothukudi.

2. The Commissioner,
Thoothukudi Municipal Corporation,
Thoothukudi.

3. A.Rajagopalan

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records of the impugned order in No.A1/1047/2016 dated 05.08.2020 on the file of the 1st Respondent and to quash the same.



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For Petitioner : Mr.G.Prabu Rajadurai
For Respondents : Mr.N.Anandkumar
Standing Counsel for R1 & R2
Mr.S.Srinivasa Ragavan for R3

ORDER

The Writ Petition is filed challenging the impugned order dated 05.08.2020. The petitioner has been paying property tax in respect of the vacant land bearing T.S.No.3888, Survey No.4, Block No.29, Toovipuram, 7th Street, Thoothukudi, covered by Document No.2713 of 2013 (Settlement Deed), Document No.1064 of 2014 (Power of Attorney) and Document No. 1867 of 2014 (Sale Deed).

2. The impugned order states that the above documents were fraudulent and thus, the tax demand in respect of the vacant land referred to above in the name of the petitioner in Assessment No.838001 (New Assessment No.138/038/01185) was set aside.

3. It is submitted by the learned Counsel for the 3rd Respondent that the claimant / 3rd Respondent herein, who claims to be the actual owner



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of the vacant land filed a suit and the said suit was decreed in his favour before the 1st Additional District Court, Thoothukudi, in O.S.No.71 of 2015 vide order dated 21.12.2021, i.e., subsequent to the filing of this Writ Petition. The learned counsel for the petitioner would submit that he intends to challenge the same.

4. In the circumstances and particularly in view of the fact that the Petitioner intends to challenge the order in O.S.No.71 of 2015 dated 21.12.2021 and the fact that the above issues are pure questions of facts relating to property rights, Article 226 of the Constitution of India may not be the appropriate forum. In this regard, it is relevant to refer to the decision of the Hon'ble Supreme Court of India in the case of **Roshina T. vs. Abdul Azeez K.T** reported in **(2019) 2 SCC 329** and the same is extracted hereunder:

“13. These questions, in our view, were pure questions of fact and could be answered one way or the other only by the civil court in a properly constituted civil suit and on the basis of the evidence adduced by the parties



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but not in a writ petition filed under Article 226 of the Constitution by the High Court.

14. It has been consistently held by this Court that a regular suit is the appropriate remedy for settlement of the disputes relating to property rights between the private persons.....”

5. In view of the above inasmuch as the dispute relates to one which is civil in nature, the parties are at liberty to adjudicate their rights before the appropriate forum. The period spent before this Court in prosecuting this Writ Petition shall be excluded in reckoning the limitation while availing appropriate remedy.

6. In view of the same, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

13.09.2022

Index : Yes / No

Speaking Order : Yes / No

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MOHAMMED SHAFFIQ, J.

vji

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