



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.[MD]No.23153 of 2021

and

W.M.P.[MD]No.19596 of 2021

WEB COPY

Subbaiah

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The President,
Kannankottai Panchayat,
Devakottai Taluk,
Sivagangai District.

3.Nallathambi

4.Shanmugavel

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the impugned order of assessment of property tax in favour of the fourth respondent dated 29.09.2021 by the second respondent and quash the same.

For Petitioner	: Mr.R.Balakrishnan
For Respondent No.1	: Mr.A.Baskaran Additional Government Pleader
For Respondent No.2	: Mr.Ramesh Arumugam Government Advocate
For Respondent Nos.3&4	: Ms.Rajini

O R D E R

The age old adage 'Blood is thicker than water' may well not be without an exception. The case on hand appears to be a classic exception to this adage as it is a tussle for immovable property in the form of land admeasuring 11 cents or thereabouts with a superstructure thereon in a part of the land, between one individual [writ petitioner] on one side and his son / grandson [respondents 3 & 4] on the other side.

2.The aforementioned immovable property is situate in Survey No.238/1 in Erolivayal Village (Kannankottai Group) Devakottai Taluk, Sivagangai District [hereinafter 'said property' for the sake



of convenience and clarity].

3.The writ petitioner filed a suit against his son and grandson arraying them as defendants 1 and 2 vide O.S.No.6 of 2021 on the file of Subordinate Judge's Court, Devakottai with a prayer for declaration of title and removal of superstructure (mandatory injunction) put up therein. This Court is informed that this suit is pending. This Court is also further informed that in this suit pleadings are complete.

4.When things stood as above, the grandson [Shanmugavel] who is Respondent No.4 in the captioned main writ petition filed an earlier writ petition being W.P.[MD]No.15199 of 2021 in this Court with a Mandamus prayer ie., a Mandamus to direct the second respondent to consider petitioner's application dated 08.10.2020 qua house tax assessment for said property. In this writ petition the grandson had not arrayed his grandfather [adversary] or his father as co-respondents. Be that as it may, suffice to say that this writ petition came to be disposed of by another Hon'ble Single Judge in and by order dated 25.08.2021, the operative portion of this order is contained in paragraph No.6 and the same reads as follows:

'6.In view of the aforestated facts as has been projected by the rival parties, this Court is inclined to dispose of this writ petition with the following order:

that there shall be a direction to the second respondent Village Panchayat to consider the representation of the petitioner dated 08.10.2020, along with objection given by one Subbaiah, who is none other than grandfather of the petitioner dated 02.07.2021 and after hearing both sides and giving an opportunity of being heard to the petitioner as well as the said individual, Subbaiah, the second respondent shall decide and pass orders on the plea raised by the petitioner, with regard to the assessment of the property tax on the property concerned. Needful as indicated shall be undertaken by the second respondent within a period of eight weeks from the date of receipt of a copy of this order.'

5.Thereafter the second respondent sent a communication dated 29.09.2021 to the writ petitioner, a scanned reproduction of which (along with a scanned reproduction of clean copy of the same) is as follows:



B.பாண்டிமீனாள்

தலைவர், கண்ணாங்கோட்டை ஊராட்சி.

க/பெ காவனவயல் N.பாலுச்சாமி

தேவகோட்டை ஊராட்சி ஒன்றியம், சிவகங்கை மாவட்டம்

☎: 9486361801

பெருமா :

தேதி : 29.09.2021

தற்போதைய
உலகநாடுகளில்
நாடுகளில் உயர்வு
நாடுகளில் உயர்வு

[illegible]

अथर्वसूक्तः -

9. இயங்கித் தான் உத்தரவு
- பி.கே. - 1

தே. பரணியாண்டி
தலைவர்
கண்ணாங்கோட்டை, ஹரிடாசி



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B.பாண்டிமீனாள்

தலைவர், கண்ணங்கோட்டை ஊராட்சி,

க/பெ.காவனவயல் N.பாலுச்சாமி,

தேவகோட்டை ஊராட்சி ஒன்றியம், சிவகங்கை மாவட்டம்,

செல்: 9486361801

தேதி: 29.09.2021

பெறுநர்

சுப்பையா,
S/o.காளிமுத்து,
ஈழவிழிவயல்,
கண்ணங்கோட்டை.

கடந்த 25.08.2021ம் தேதியன்று சண்முகவேல், த/பெ.நல்லதம்பி ஈழவிழிவயல் என்பவர் உயர்நீதிமன்றம் மதுரை கிளையில் W.P.[MD]No.15199/2021ம் உத்திரவின்படி மேற்படி சண்முகவேல் கட்டிய தார்க் வீட்டிற்கு வீட்டுவரி ரசீது வழங்குமாறு எனக்கு உத்திரவு கொடுக்கப்பட்டுள்ளது. அந்த உத்திரவின்படி நான் சண்முகவேலுக்கு வீட்டு வரி ரசீது வழங்கியுள்ளேன். மேலும் தாங்கள் மேல் நடவடிக்கை மேற்கொள்ள நினைத்தால் நீதிமன்றத்தை நாடி பிரகாரம் தேடிக்கொள்ளலாம் என்பதை அன்புடன் கேட்டுக் கொள்கிறேன்.

B.பாண்டிமீனாள்

தலைவர்,
கண்ணங்கோட்டை ஊராட்சி.

இணைப்பு:

உயர்நீதிமன்ற உத்திர-நகல்-1.

6.Assailing the aforementioned 29.09.2021 communication ['impugned order' for the sake of convenience and clarity] the grandfather has now come to Court arraying the jurisdictional District Collector, President of the local Panchayat as official respondents besides arraying his son and grandson [Nallathambi &



Shanmugavel] as private respondents 3 and 4.

7. In the admission Board today, Mr.R.Balakrishnan learned Counsel on record for lone writ petitioner, Mr.A.Baskaran, learned Additional Government Pleader who accepted notice on behalf of first respondent [official respondent], Mr.Ramesh Arumugam, learned Government Advocate for Kannankottai Panchayat who accepted notice on behalf of second respondent and Ms.Rajini learned Counsel who accepted notice on behalf of third and fourth respondents are before me.

8. Owing to the short point on which the matter on hand turns, main writ petition was taken up with the consent of all the aforementioned Counsel.

9. When the main writ petition was taken up with consent there was also consensus amongst the Counsel before me that the impugned order has not been made in accordance with the earlier directive given by another Hon'ble Single Judge vide aforementioned order dated 25.08.2021 in W.P.[MD]No.15199 of 2021. Learned Single Judge has directed the second respondent to consider the objection given by Subbiah [writ petitioner before me] hear both sides and give an opportunity of being heard to Shanmugavel [fourth respondent before me] as well as Subbiah [writ petitioner before me]. The impugned order does not say that such opportunity was given.

10. Be that as it may, another important aspect of the matter is the second respondent vide the impugned order has understood the earlier order of this Court to be one directing the second respondent to issue house tax receipts to Shanmugavel. This is obviously incorrect as a plain reading of paragraph No.6 [operative portion] of the earlier order and the impugned order make it clear that the second respondent has only been directed to give opportunity to both sides, consider the objections and make an order.

11. In the light of the aforementioned consensus, all the Counsel agreed for disposal of the captioned writ petition by way of a consent order and therefore, the following consent order is made:

a) Impugned order [29.09.2021 communication from second respondent to writ petitioner] is set aside solely on two grounds. One ground is it is not in tune and tandem with paragraph No.6 of the earlier order made by this Court. The second point is, second respondent who made the impugned order has understood the earlier order of this Court to have directed the second respondent to issue house tax receipts in favour of Shanmugavel;

b) As the impugned order is set aside only on the aforementioned two points it is made clear that this



Court has not expressed any view or opinion on the merits of the matter;

c) The second respondent shall re-do the exercise pursuant to earlier orders of Hon'ble Single Judge in accordance with the directives therein and conclude the same as expeditiously as the business of the second respondent would permit and in any event within six [6] weeks from today ie., on or before **21.02.2022**;

d) The orders / proceedings by which the aforementioned denovo exercise is concluded shall be communicated to all concerned, more particularly, writ petitioner, respondents 3 & 4 under due acknowledgment within seven working days from the date of disposal;

e) Though obvious it is made clear that all questions including pending suit and its impact *qua* the denovo exercise of second respondent are left open and therefore, the second respondent shall decide the matter afresh uninfluenced / untrammelled by any observation made in this order.

12. Captioned main Writ Petition is disposed of vide above directives. Consequently, captioned WMP is disposed of as closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MR

NOTE: *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

To

1.The District Collector,
Sivagangai District,
Sivagangai.



2.The President,
Kannankottai Panchayat,
Devakottai Taluk,
Sivagangai District.

+1 CC to M/s.SPL.GP (SR-177[F] dated 04/01/2022)

W.P.[MD]No.23153 of 2021
03.01.2022

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