



W.A.No.2793 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.2793 of 2022

L.Jebaraj

.. Appellant

Vs

1.The Assistant Revenue Officer-VI,
Corporation of Chennai,
No.5, Anderson Street,
Ayanavaram, Chennai-600 023.

2.M/s.Madrassa Jamalia Wakf,
rep. by its Muthavalli M.J.S.Sultan,
No.30, Perambur High Road,
Chennai-600 012.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 10.10.2022 passed in W.P.No.5343 of 2022.

For the Appellant : Mr.G.Appavoo



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JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

The unsuccessful writ petitioner has filed this writ appeal challenging the order dated 10.10.2022 passed by the learned Single Judge in W.P.No.5343 of 2020.

2. Learned counsel for the appellant submitted that the learned Single Judge has failed to consider that the Corporation of Chennai had not properly submitted the legal position of dual assessment of the property by way of proper counter and that the learned Single Judge has also failed to consider the provisions of law of the Transfer of Property Act and the Madras City Municipal Corporation Act, which permit the sale of superstructure and sale of land under two different sale deeds and two different owners.

3. Learned counsel for the appellant further submitted that as per the terms of the lease agreement only the land in question was leased on a monthly rent and the entire 6000 sq. ft. of building was



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constructed at the cost of Rs.35 lakh by the appellant with the knowledge of the second respondent and, therefore, he is entitled to have assessment of tax in his own name. However, the learned Single Judge has failed to consider the same and dismissed the writ petition on a flimsy ground.

4. The facts on record reveal that the Assistant Revenue Officer-VI, Corporation of Chennai has passed an order dated 8.11.2019 declining the request of the appellant dated 24.9.2018 to assess the property tax in the name of the appellant stating that the appellant is a tenant of M/s.Madrassa Jamalia Wakf.

5. It appears that initially the writ petition was filed without impleading M/s.Madrassa Jamalia Wakf as party respondent and pending writ petition, M/s.Madrassa Jamalia Wakf filed W.M.P.No.14086 of 2022 to implead them as second respondent in the writ petition. After the impleadment, M/s.Madrassa Jamalia Wakf, the second respondent herein, has filed a detailed counter-affidavit stating that it has leased out the property to the appellant



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in the year 1986. The lease arrangement was renewed from time to time and the last renewal of lease expired on 31.3.2002 and thereafter, no renewal of lease was made in favour of the appellant.

6. The records further reveal that the second respondent filed a suit in O.S.No.3148 of 2004 before the I Assistant City Civil Court, Chennai against the appellant for recovery of possession of the property in question and recovery of arrears of rent amounting to Rs.3.78 lakh and also damages for future use and occupation of the property. The said suit appears to have been partially decreed on 20.7.2011 in favour of the second respondent by allowing the relief to recover the rental arrears and damages towards use and occupation alone. Aggrieved by the judgment and decree dated 20.7.2011, both the appellant and the second respondent filed A.S.No.453 of 2011 and A.S.No.47 of 2013 respectively before the IV Additional City Civil Court. By a common judgment dated 3.9.2015, the aforesaid two appeals were dismissed affirming the judgment and decree dated 20.7.2011 passed in O.S.No.3148 of 2004. It also appears that as against the common judgment dated



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3.9.2015 passed in A.S.Nos.453 of 2011 and 47 of 2013, S.A.Nos.286 of 2016 and S.A.No.1122 of 2019 respectively were filed by the appellant and the second respondent and the second appeals are still pending before this Court.

7. Since the second appeals, being S.A.Nos.286 of 2016 and 1122 of 2019, are pending before this Court, the order to be passed therein will have a bearing on the right of the appellant as claimed in the writ petition. We, therefore, do not find any infirmity in the order passed by the learned Single Judge warranting interference by this court in the present writ appeal.

8. The writ appeal fails and it is dismissed accordingly. There will be no order as to costs.

(T.R., ACJ.) (D.B.C., J.)
20.01.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

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