IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.32111 of 2019
&
W.M.P.No.32369 of 2019

Vijayalakshmi Raghavan ...Petitioner

Vs.

1.The Commissioner of Municipal Administration,
Municipal Administration Department,
Ezhilagam Annex, 6th Floor, Chepauk,
Chennai.

2.The Director,
The Directorate of Town Panchayat,
Chennai.

3.The Executive Officer, Special Grade Town Panchayat,
Thirumurugan Poondi
Avinashi Taluk, Tiruppur.

4.Duraisamy

5.Karunaiammal

6.Ramaswamy

7.Arumugam

8.The Sub Registrar,
Avinashi Sub Registrar Office,
Tiruppur District.
[R4 to R7 impleaded vide order dt. 20.07.2022
made in W.M.P.No.7516 of 2020 in
W.P.No.32111 of 2019
R8 impleaded vide order dt.30.09.2022 made
in W.M.P.No.25410 of 2022 in W.P.No.32111 of 2019]
...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records of the impugned of the 3rd respondent dated 19.08.2019 made in Na.Ka.No.391/2016 and quash the same and direct the 3rd respondent to levy property tax for the petitioner's house at Plot No.132, Duraisamy Nagar, Rakkiyapalayam, Avinashi, Thirumuruganpoondi, Tiruppur.

For Petitioner : Mr.Arunprasath

For Respondents : Mr.K.V.Sajeev Kumar [for R1, R2 & R8]
Special Government Pleader
Mr.Silambanan [for R3]
Additional Advocate General assisted by
Mr.K.Surendran
Additional Government Pleader
Mr.N.K.Arul Muruganandham [for R6]
No appearance [R5]
'left' [for R7]

O R D E R

The petitioner seeks Certiorarified Mandamus calling for and quashing the order passed by the 3rd respondent/Executive Officer, Special

Grade Town Panchayat, Thirumurugan Poondi, Avinashi Taluk, Tiruppur, rejecting the request of the petitioner to assess the property in Survey Nos.391/1A, 391/2, 392/1&2 Rakkiyapalayam Village, Avinashi admeasuring 11,839 Sq.ft. (Property/property in question) to property tax.

2. It is the claim of the petitioner that the property in question had been purchased after due verification that it forms part and parcel of the layout Viz., Su.Doraisamy Nagar by way of registered sale deed, executed on 27th November 1991. Immediately, upon purchase the petitioner had also sought planning permit in respect of plot bearing No.132. Such permission was granted vide proceedings dated 10.01.1992, but had lapsed, since the petitioner had, admittedly, not effected construction.

3. The petitioner then sought planning permission yet again in 2008, which application came to be rejected vide order dated 06.02.2008 that had been challenged in W.P.No.9966 of 2008. That writ petition came to be dismissed on 23.04.2008 permitting the petitioner to file a statutory appeal as against the same.

4. Accordingly, statutory appeal has been filed by the petitioner on 05.05.2008 before the Secretary to Government, Rural and Urban Development department ('Authority'), and the same is stated to be yet

pending. While so, the petitioner had sought assessment of the property to property tax, which has come to be rejected and hence, this Writ petition.

5. The respondents argue that Su.Duraisamy Nagar is a layout that comprises 130 residential plots, 2 parks and commercial shops. There was no plot No.132 as contended by the petitioner. They would submit that the present writ petition and, in fact, the earlier Writ petition filed in 2008, are only an attempt to legitimize the petitioner's claim to plot No.132.

6. To this, the petitioner would point out that the purchase of all the plots had been made vide registered sale deed and that the property had also permitted to be developed as early as in 1992. In such circumstances, there is no justification for the rejection of his request for property tax assessment. That apart, it has never been the case of the respondents that Plot No.132 had been gifted by way of OSR and no gift deed has been produced.

7. Be that as it may, since the factual matrix relating to the ownership of the property is itself in dispute and seeing as the appeal of the petitioner challenging order dated 06.02.2008 denying planning permission, is pending before the statutory authority, it would be appropriate to direct that authority to dispose the appeal after marshalling all the required facts and

taking note of all relevant documents including registered sale deed dated 27.11.1991 and order dated 10.01.1992, in accordance with law.

8. Let the aforesaid exercise be carried out within a period of six (6) weeks from date of receipt of a copy of this order, after hearing the petitioner. Needless to state, the prayer of the petitioner for property tax assessment of the plot No.132 will be subject to the decision to be taken by the appellate authority. Since the authority is not arrayed as a party in this Writ petition, this order will be communicated to him for necessary action in terms of the directions issued above by the learned Special Government Pleader.

9. This Writ petition stands disposed in the aforesaid terms. No costs. Consequentially, connected miscellaneous petition is closed.

21.03.2023

mpl
Index : Yes/No
Speaking Order/Non speaking Order
Neutral Citation:Yes/No

DR.ANITA SUMANTH,J.
mpl

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