



W.P.(MD)No.4529 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2023

CORAM

THE HON'BLE MR. JUSTICE P.D.AUDIKESAVALU

W.P.(MD)No.4529 of 2022

and W.M.P. (MD) Nos. 3800 and 3801 of 2022

Janaki Traders,
Rep. by its Partner S.Balasubramanian

... Petitioner

-vs-

1. The District Revenue Officer,
Thoothukudi District, Thoothukudi.

2. The Commissioner,
Thoothukudi Corporation, Thoothukudi.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records of the second respondent in Na.Ka.No.141/2022/A1/Mo.Ma. dated 06/01/2022 and quash the same as devoid of merits and consequently direct the first respondent to change the classification of land in Survey No.1622/1A1A of Milavittan Part-I Village , Thoothukudi Taluk, based on the proceedings of the Additional Chief Secretary / Commissioner of Land Administration, Chepauk, Chennai-5 in ROC.K1/29575/2013 dated 14.04.2014.

For Petitioner : Mr. Ananth C.Rajesh

For Respondents : Mr. M.Senthil Ayyanar
Government Advocate for R1
Mr. N.Anandakumar for R2



W.P.(MD)No.4529 of 2022

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ORDER

Heard Mr. Ananth C.Rajesh, Learned Counsel for the Petitioner, Mr. M.Senthil Ayyanar, Learned Government Advocate, appearing for the First Respondent and Mr. N.Anandakumar, Learned Counsel for the Second Respondent and, perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed challenging the order in Na.Ka.No. 141/2022/A1/Mo.Ma dated 06.01.2022, demanding payment of property tax from the Petitioner and for a consequential direction to the First Respondent to change the classification of land in Survey No.1622/1A1A of Milavittan Part-I Village , Thoothukudi Taluk, based on the proceedings of the Additional Chief Secretary / Commissioner of Land Administration, Chepauk, Chennai-5 in ROC.K1/29575/2013 dated 14.04.2014.

3. It is brought to notice that the First Respondent by order No.D1-22065-2013 dated 05.10.2018 has taken action in furtherance to the Proceedings of the Commissioner of Land Administration, Chepauk, Chennai-5 and that its copy has been served on one Ramakrishnan, who is another partner



W.P.(MD)No.4529 of 2022

of the Partnership Firm of the Petitioner. In this context, it must be recapitulated here that a Partnership Firm does not have any independent legal existence and it is merely a compendious name of the partners constituting it at a given point of time. It is not in dispute that the said Ramakrishnan was a Partner of the Partnership Firm of the Petitioner. It also requires to be highlighted that Section 24 of the Indian Partnership Act, 1932, reads as follows:-

“24. Effect of notice to acting partner:- Notice to a partner who habitually acts in the business of the firm of any matter relating to W.P. No. 26218 of 2018 and W.P. No. 21238 of 2019 the affairs of the firm operates, as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner.”

It would be useful in this context to refer to the relevant passage from the decision of the Hon'ble Supreme Court of India in **Ashutosh -vs- State of Rajasthan** [(2005) 7 SCC 308], which is extracted below:-

“11. Section 24 deals with the effect of notice to a partner. Such notice may be binding if the following conditions are satisfied:

(a) the notice must be given to a partner;

(b) the notice must be a notice of any matter relating to the affairs of the firm;



W.P.(MD)No.4529 of 2022

(c) fraud should not have been committed with the consent of such partner on the firm.

12. Section 24 is based on the principle that as a partner stands as an agent in relation to the firm, a notice to the agent is tantamount to the principal and vice versa. As a general rule, notice to a principal is notice to all his agents; and notice to an agent of matters connected with his agency is notice to his principal.”

In view of that legal position, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition reserving the rights to pursue the legal remedies available under the Coimbatore City Municipal Corporation Act, 1981, which is applicable to the Second Respondent, viz., in respect of other grievances of the Petitioner and he has made an endorsement to that effect in the court record.

In the result, the Writ Petition is dismissed as withdrawn with the aforesaid observations. The connected Miscellaneous Petitions are closed. No costs.

15.02.2023

Index : Yes/No

Internet : Yes/No

PKN

Note: Issue order copy on 24.02.2023.



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W.P.(MD)No.4529 of 2022

P.D.AUDIKESAVALU,J.

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To

1. The District Revenue Officer,
Thoothukudi District, Thoothukudi.

2. The Commissioner,
Thoothukudi Corporation, Thoothukudi.

W.P.(MD)No.4529 of 2022

15.02.2023