BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.11010 of 2021

Maheswari, W/o.Late.Kannan ... Petitioner

-vs-

1.The Tahsildar,
Thirupuvanam Taluk , Sivagangai District.

2.The President of Panchayat,
Chellapanenthal Panchayat,
Thirupuvanam Taluk, Sivagangai District.

3.M.Saravana Kumar ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to remove the house tax receipts wrongly entered in the name of the third respondent in respect of the petitioner's house bearing Door No.2/76, situated at S.F.No. 237/10, Chellapanenthal Town, Manamadurai Taluk, Sivagangai District, and to take effective steps to provide house tax receipts in petitioner's name, by considering her representation, dated 06.05.2021, within a time that may be stipulated by this Court.

For Petitioner	:	Mr.R.Venkatesan
For R1 and R2	:	Mr.R.Ragavendran Government Advocate
For R3	:	Mr.G.Kaleeswaran

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, directing the respondents 1 and 2 to revoke the assessment of house tax made in the name of the third respondent with respect to Door No.2/76, situated at S.F.No.237/2010, Chellapanenthal Town, Manamadurai Taluk, Sivagangai District, based on the representation made by the petitioner on 06.05.2021.

2. The case of the petitioner is that the subject property in S.F.No. 237/10 was an ancestral property belonging to her husband. This property was gifted to the husband of the petitioner and one of the brothers namely, Rajangam. The husband of the petitioner also constructed a house bearing Door No.2/76. He died on 11.08.2001, leaving behind the petitioner as his legal heir. After the demise, the petitioner continues to live in the house and she is in possession and enjoyment of the same. That apart, the revenue records also stands in the name of the petitioner with respect to S.F.No.

237/10.

3. The grievance of the petitioner is that the third respondent had managed to get the tax assessed in his name with respect to the subject property. In view of the same, the petitioner made a representation to the respondents 1 and 2 to revoke the tax assessment made in the name of the third respondent. Since the same was not considered, the present Writ Petition has been filed before this Court.

4. The second respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:-

> *"5. It is respectfully submitted that the petitioner had owned a constructed house in S.F.No.237/10 bearing with Door No.2/76 at Chellapanenthal Town, Manamadurai Taluk, Sivagangai District. Regarding the averments in Para 2 of the affidavit of the petitioner, it is submitted that the petitioner was enjoying peaceful possession over the land in Patta No. 888 as in Survey No.237/10.*
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> *6. Regarding the averment in Para 3, it is submitted that the 3rd respondent had a land bearing with the Survey No.237/9 with extent of 870 sq.ft. in Palta No.592 and same was recorded in the*

name of the 3rd respondent. Further denied with the averment in Para 3 of the affidavit as that the 1st and 2nd respondents had given house tax receipt to the 3rd respondent for the land in Survey No. 237/10 as it belong to the petitioner and further the 1st and 2nd respondents had given the house tax receipt to the 3rd respondent for the land in Survey No.237/10 as it belong to the petitioner and further, the 1st and 2nd respondents had given the House tax and Electricity receipt only for the land in Survey No.237/9, which was hold by the 3rd respondent and not for the land bearing with the Survey No.237/10. Thus, there was no fraudulent records had been maintained by the respondents.

7. Regarding the averment in Para 4, dented with it and I submitted that 1st and 2nd respondents were formed to the petitioner that they had given receipt in the name of the 3rd respondent only for land bearing the S.F.No.237/9 and not for land in S.F.No.237/10 and further the petitioner made repeat approaches over the respondent to remove the 3rd respondent name which was not originally added and cause disturbance in discharging the official duties by the respondents.

8. I submitted that representation made by the petitioner had been considered by the respondent and informed to the petitioner regarding with that the tax receipt was given only to the S.F.No.237/9 and not for the S.F.No.237/10 and there were no changes in Revenue *records and also not had included the 3rd respondent name in the records with S.F.No.237/10."*

5. Heard Mr.R.Venkatesan, learned counsel appearing on behalf of the petitioner, Mr.R.Ragavendran, learned Government Advocate appearing on behalf of the respondents 1 and 2 and Mr.G.Kaleeswaran, learned counsel appearing on behalf of the third respondent.

6. In the considered view of this Court, the petitioner is claiming right over the property in S.F.No.237/10. However, the third respondent is not claiming any right over this property and he is claiming right only over the property in S.F.No.237/9. The second respondent has also made it very clear in the counter affidavit that the third respondent has not been assessed for tax with respect to the property in S.F.No.237/10, which is in possession and enjoyment of the petitioner. In view of the specific stand taken by the second respondent, the grievance expressed by the petitioner is sufficiently redressed.

7. The learned counsel appearing on behalf of the third respondent submitted that the third respondent is only claiming right over the property in S.F.No.237/9 and not on the property in S.F.No.237/10.

8. Recording the stand taken by the second respondent in the counter affidavit and the submission made by the learned Government Advocate appearing on behalf of the second respondent and the learned counsel appearing on behalf of the third respondent, this Writ Petition is disposed of. No costs.

NCC : Yes/No **18.10.2023**
Index : Yes/No
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To

1.The Tahsildar,
Thirupuvanam Taluk , Sivagangai District.

2.The President of Panchayat,
Chellapanenthal Panchayat,
Thirupuvanam Taluk, Sivagangai District.

N.ANAND VENKATESH, J.

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