BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.18000 of 2023

P.Sonaiammal ... Petitioner

Vs.

1.The Block Development Officer,
Sankarapuram Village Panchayat,
Karaikudi, Sivagangai District.

2.The President,
Sankarapuram Village Panchayat,
Karaikudi, Sivagangai District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to assess the petitioner's house for property tax situated in Old S.No.9/3, New S.No.9/129B of Sekkalaikottai Village, Sankarapuram Panchayat and to issue property tax receipts on receipt of the tax amount.

For Petitioner	:	Mr.J.Anandkumar
For R-1	:	Mr.C.Baskaran, Government Advocate.
For R-2	:	Mr.N.C.Ashok Kumar

ORDER

This Writ Petition is filed for Mandamus, directing the respondents to assess the petitioner's house for property tax situated in Old S.No.9/3, New S.No.9/129B of Sekkalaikottai Village, Sankarapuram Panchayat and to issue property tax receipts on receipt of the tax amount.

2. The petitioner has purchased the said property through registered sale deed dated 17.12.2020. In order to put up dwelling house, the petitioner had applied for building plan approval to the second respondent. The said application was processed and approved by the respondents. Based on the approval, the petitioner has put up construction and completed the same without any deviation. The petitioner had applied for EB service connection from the Electricity Department and the same was granted. Thereafter, the petitioner approached the respondents for assessment of property tax. Since the same was refused, the petitioner submitted a detailed representation dated 26.05.2023. Inspite of several attempts, the respondents did not assess the property and was not ready to issue house tax receipts. Hence, the petitioner is before this Court.

3. The second respondent has filed a counter stating that the petitioner is claiming to have purchased the land from one A.Rajan through registered sale deed dated 27.12.2020 and has applied for planning approval and the same was granted. On 26.05.2023 the petitioner had approached for assessing the house in order to levy property tax. But the petitioner has suppressed the following material facts. After the receipt of the application for assessment, a show cause notice dated 21.02.2022 was issued by the second respondent directing the petitioner to explain regarding the compliant dated 28.01.2022 received from the Principal, Alagappa Chettiar Government College of Engineering and Technology, Karaikudi. In the complaint, the College has stated that they are owners of the land in S.No.9/3 and the petitioner's sale deed dated 27.12.2020 was executed by creating forgery patta. The petitioner has not submitted any reply to the said show cause notice. In the complaint submitted by the Alagappa Chettiar Government College of Engineering and Technology, Karaikudi, the following facts were submitted and the relevant portion is extracted hereunder:

> *Dr.Alagappa Chettiar Educational Trust owned 244.39 acres of land including the land in S.No.9/3 and they constructed an Engineering College in the same. On 22.12.1971 the Government of Tamil Nadu has taken over the above college along with buildings and land including the land in S.No.9/3. The College was renamed as*

> *Alagappa Chettiar Government College of Engineering and Technology, Karaikudi. After taking over, the entire 244.39 acres of land have been classified as Government Land. As college did not construct any compound wall, several busybodies have started to encroach the college land. Hence based on the complaint given by the College, the District Registrar, Karaikudi issued an order dated 03.07.2015 directing the Sub-Registrar, Karaikudi not to register any document relating to the property of College owned by the Government of Tamil Nadu. Above prohibitory order is being reflected in the EC. But even after passing of the prohibitory order, the sub-registrar, Karaikudi has registered the sale deed dated 27.12.2020. The petitioner being aware of the above has obtained the sale deed to usurp the Government property. Further the College contended that the petitioner's vendor Rajan has registered two sale deed including the sale deed dated 27.12.2020 by creating a patta bearing S.No.9/129B by forgery. The Tahsildar, Karaikudi issued a proceeding dated 20.12.2022 in O.Mu.Aa2/7757/2022 stating that they did not make any sub-division as S.No.9/129B and the same does not exist in revenue records.*

Without submitting any reply to the said show cause notice, the petitioner had filed this Writ Petition and deviating the issue. The averments in the affidavit filed along with the Writ Petition is declined as false. Therefore, the learned counsel appearing for the second respondent prayed to dismiss this Writ Petition.

4. Heard Mr.J.Anandkumar, learned counsel for the petitioner, Mr.C.Baskaran, learned Government Advocate for the first respondent and Mr.N.C.Ashok Kumar, learned counsel for the second respondent.

5. The learned counsel appearing for the respondents relied on the proceedings issued by the District Registrar, Karaikudi dated 03.07.2015, wherein it is stated that the Alagappa Chettiar Government College of Engineering and Technology, Karaikudi has given a complaint that the land in Survey No.9/2b, 9/1b2 and 9/3 belongs to the Government and hence the said lands cannot be registered. The learned counsel appearing for the petitioner refuted the said proceedings and submitted that subsequent proceedings was issued by the same District Registrar in Na.Ka.No.324/A1/2022, dated 19.04.2022. The complaint of one S.M.K.Chokkalingam was taken on file and elaborately the issue was discussed and has held that two persons are claiming right over the said property. Therefore, the issue is civil in nature and the party should approach the appropriate Civil Court to decide the issue.

6. On perusing these two proceedings, admittedly there are some disputes whether the said land belongs to the Government or it belongs to the patta holders. The same cannot be a reason for refusing to assess and impose property tax. At the most, the second respondent can refer the matter to the appropriate authority to take action against the erring person or erring officials. Therefore, this Court directs the second respondent to assess the petitioner's property and impose property tax. The said exercise shall be completed within

a period of four (4) weeks from the date of receipt of a copy of this order. The other issues raised by the respondents are left open and it is for the second respondent to bring into knowledge to the appropriate authority for taking action. Until then, the second respondent cannot decline from imposing property tax. However it is made clear that if any civil suit is filed in future, then the assessment is subject to the judgment that would be passed in the suit.

7. In view of the above, this Writ Petition is allowed in above terms. There shall be no order as to costs

01.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

1.The Block Development Officer,
Sankarapuram Village Panchayat,
Karaikudi, Sivagangai District.

2.The President,
Sankarapuram Village Panchayat,
Karaikudi, Sivagangai District.

S.SRIMATHY, J.

Nsr

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