BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.20007 of 2023
and
W.M.P.(MD).No.16506 of 2023

Saraswathi ... Petitioner

Vs.

1.The Commissioner,
Rajapalayam Municipality,
Rajapalayam.

2.The Revenue Inspector,
Rajapalayam Municipality,
Rajapalayam.

3. R.Shylaja ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent by his proceedings dated 03.07.2023 in Na.ka.No.A3/Pe.Ma.21/2023 and to quash the same as illegal and consequently to direct the first respondent to mutate the property tax assessment in the name of the petitioner by virtue of an Will dated 24.01.2018.

For Petitioner : Mr.A.Mohan

For R-1 : Mr.N.Dilipkumar
Standing Counsel,

ORDER

This writ petition is filed to quash the order dated 03.07.2023 with a consequential direction to the first respondent to mutate the property tax assessment in the name of the petitioner by virtue of a Will dated 24.01.2018.

2. The petitioner and the third respondent claims right over the property in Town Survey No.10/18, Revenue Survey No.506 situated at Thiruvananthapuram Street, Rajapalayam. Originally, one Ramani, who is the younger sister of the petitioner, was the owner of the property. The said Ramani died on 06.06.2018 without any issues. The petitioner claims that the deceased Ramani resided with her during her illness, hence the said Ramani has executed an unregistered Will dated 24.01.2018 in favour of the petitioner. Earlier the said Ramani had executed an unregistered Will dated 30.12.2017 in favour of the 3rd respondent and the petitioner claims that the said Will was cancelled, thereafter the said Ramani had executed Will in favour of the petitioner. The 3rd

respondent is the daughter of one Rajam and the said Rajam is another sister to the said Ramani. It is pertinent to state both the Wills are not registered.

3. Through the impugned order the respondents have rejected the claim of the petitioner. However, when the first respondent started imposing tax on the property, has started collecting tax from the third respondent, notice was not issued to the petitioner. Hence the imposition of tax and collecting of tax from the 3rd respondent is violative of principles of natural justice. Therefore, it is necessary that the proper enquiry ought to be conducted by the official respondents after giving opportunity to the petitioner and the 3rd respondent.

4. Therefore, this Court directs the 1st and 2nd respondents to keep the assessment in the name of Ramani, who is the original owner. Thereafter issue notice to the petitioner as well as the third respondent and conduct enquiry after giving personal hearing to the parties. Both the petitioner and the third respondent are directed to cooperate with the enquiry, which shall be conducted by the first respondent. Thereafter, the official respondents shall pass a speaking order. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

17.08.2023

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

To

1.The Commissioner,
Rajapalayam Municipality,
Rajapalayam.

2.The Revenue Inspector,
Rajapalayam Municipality,
Rajapalayam.

S.SRIMATHY, J.

Sml/Nsr

W.P.(MD).No.20007 of 2023

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