BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 23484 of 2022

N.Karthik Kumar ... Petitioner

Vs.

1.The Commissioner,
Dindigul Corporation,
Dindigul, Dindigul District.

2.Thilagam

3.Barathkumar

4.Thangapandian ... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to cancel the House tax on the name of the 3rd and 4th respondents herein and restore the same in favor of the petitioner with regard to Property in Town Survey No.635 situated at Block No.8, Dindigul Town, Dindigul District based on his representation dated 10.09.2022.

For Petitioner	:	Mr. G.Gomathi Sankar
For Respondents	:	Mr. M.Thirunavukkarasu (R1)
		Mr. A.Rajkumar (R2 to R4)

ORDER

Heard Mr. G.Gomathi Sankar, Learned Counsel appearing for the Petitioner, Mr. M.Thirunavukkarasu, Learned Counsel appearing for the First Respondent and Mr. A.Rajkumar, Learned Counsel appearing for the Second to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed seeking for a direction to the First Respondent to cancel the house tax in the name of the Third and Fourth Respondents and restore the same in favour of the Petitioner with regard to property in Town Survey No.635 situated at Block No.8, Dindigul Town, Dindigul District, based on his representation dated 10.09.2022 made in that regard.

3. In response to the aforesaid claim made by the Petitioner, the First Respondent has filed a report dated 06.02.2023 in which it has been stated as follows:-

> *" 2.I submit that the property comprised in T.S.No: 635 in Dindigul Town originally originally belonged to one S.N.Subbaiah Chettiyar, S.N.Radhakrishnan and S.N.Nanjappa Chettiyar and a partition took place vide registered partition deed in Doc. No: 1379/1978 dated 25.10.1978 and in which the subject property was allotted to Kanagaraj, S/o.Radhakrishnan Chettiyar. Subsequent to the above said partition, the property tax was mutated in the name of said Kanagaraj and thereafter he sold an extent of 1640 Sq.ft. out of 3240 Sq.ft. to third parties.*
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> *3.I submit that the said Kanagaraj and his wife namely Thilagam have executed a registered release deed in Doc. No: 34/2001 dated 06.02.2001 in favour of his mother and his brothers. Subsequently, one of the sons of Radhakrishnan chettiyar namely Chandrasekaran has obtained a power of attorney from the wife of Late.Radhakrishnan, his mother and three other legal heirs of Late.Radhakrishnan and executed a*

sale agreement dated 30.12.2013 in favor of the petitioner herein namely Karthick Kumar with respect to the remaining extent of 1640 sq.ft for a total consideration of Rs.21,00,000/- and he has also received a sum of Rs.5,00,000/- on the date of sale agreement itself. But the above said Chandrasekar failed to perform his part of contract and therefore the petitioner herein has instituted a suit for specific performance in O.S.No.4/2015 and obtained a decree in his favour and got a sale deed dated 31.08.2015 executed in his favour. Hence the property tax was mutated in the name of the petitioner herein. But in the meantime the said Thilagam, based on the release deed in Doc. No.1379/1978 by which her husband got the above said property, has executed a settlement deed dated 29.10.2018 with respect to the remaining 1640 sq.ft in favour of her sons namely Bharath kumar and Thangapandian, who are the respondents 3 and 4 herein. Based on the above said settlement deed, the respondents 3 and 4 have mutated the property tax to their name.

4. I submit that challenging the above said mutation of property tax in the name of the respondents 3 and 4, the *petitioner herein has filed the present writ petition. When the matter was taken up for hearing this Hon'ble Court was pleased to directed this respondent to file a report by conducting a detailed enquiry and file a report before this Hon'ble Court. As per the direction of this honorable court I have issued notice to both the petitioner and the respondents 2 to 4 herein and based on their submission I am filing this report before this Hon'ble court. During the inquiry, the following facts came into light. The subject property measuring an extent of 3240 sq.ft belonged to One Late.Radhakrishnan and he had 5 legal heirs namely Nagaraj, Chandrasekar, Ravichandran, Pichalu and Kanagaraj. With respect to the subject property, the Radhakrishnan, for himself and his three minor sons namely Nagaraj, Chandrasekar, Ravichandran and his son Pichalu have jointly executed a release deed in favour of one of his sons namely Kanagaraj vide release deed in doc.No. 1379/1978. Subsequently the above said Kanagaraj, during his lifetime has sold an extent of 1640 sqft out of 3240 sqft to some third parties. The above said Kanagaraj, his wife* *namely Thilagam for herself and his minor sons executed a release deed dated 06.02.2001 in favour of her husband's mother namely R.Rajalakshmiammal and his four brothers namely Nagaraj, Chandrasekar, Ravichandran, Pichalu without schedule of properties or property details.*

5.I submit that while this being the fact, one of the legal heirs of Late.Radhakrishnan namely Chandrasekar has obtained a power of attorney from the wife of Late.Radhakrishnan, his mother and three other legal heirs of Late Radhakrishnan and executed a sale agreement dated 30.12.2013 in favor of the petitioner herein namely Karthick Kumar with respect to the above said remaining 1640 sq.ft for a total consideration of Rs.21,00,000/- and he has also received a sum of Rs.5,00,000/- on the date of sale agreement itself. But the above said Chandrasekar failed to perform his part of contract and therefore the petitioner herein has instituted a suit for specific performance in O.S.No.4/2015 and obtained a decree in his favour and got a sale deed dated 31.08.2015 executed in his favour.

6.1 submit that while so, the above said Thilagam, based on the release deed in Doc. No. 1379/1978 by which her husband got the above said property, has executed a settlement deed dated 29.10.2018 with respect to the remaining extent of 1640 sq.ft in favour of her sons namely Bharath kumar and Thangapandian, who are the respondents 3 and 4 herein. Based on the above said settlement deed, the respondents 3 and 4 have mutated the property tax to their name.

7. I submit that the petitioner herein has objected the above said mutation of property tax in the name of the respondents 3 and 4 and requested this respondent to mutate the property tax in his name. Moreover, he has also filed a suit for declaration in O.S.No.276/2020 against the respondents 3 and 4 herein. On accumulating all the above said facts, I could conclude that the petitioner having obtained a decree in his favor and the sale deed dated 31.08.2015, the property tax could be in the name of the petitioner, Karthick Kumar and after the outcome of the suit in O.S.No.276/2020 filed by the petitioner, it could be decided *in whose name the property tax could be mutated."*

In view of the aforesaid action taken on the representation dated 10.09.2022 made by the Petitioner, nothing remains for further consideration in the Writ Petition, but it would not preclude the Petitioner and the Third and Fourth Respondents, if they have any further grievance from working out their remedies before the proper forum in the manner recognized by law.

In the result, the Writ Petition is disposed with the aforesaid observations. No costs.

08.02.2023

Index : Yes/No
Internet : Yes/No
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Note: Issue order copy by 10.05.2023.

To
The Commissioner,
Dindigul Corporation,
Dindigul, Dindigul District.

P.D.AUDIKESAVALU,J.

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W.P. (MD) No. 23484 of 2022

08.02.2023