



W.P.(MD)No.10296 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.10296 of 2016
and W.M.P.(MD)No.8053 of 2016

S.Asokan

... Petitioner

versus

1. The Commissioner,
Aruppukottai Municipality,
Aruppukottai,
Virudhunagar District.
2. The Secretary,
Aruppukottai Maninagaram
Kshatriya Hindu Nadargal
Uravinmurai Pothu Mahamai
185-A, Madurai Road,
Aruppukottai,
Virudhunagar District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned orders dated 15.09.2014 in Po.Ma.Ma.No.2083/2014/A1 and dated 22.03.2016 in Na.Ka.No. 00392/2016/A1 of the 1st respondent and quash the same and



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consequently, direct the 1st respondent to issue separate tax receipt for the superstructure under the Assessment No.31070 regarding Door No. 185A, Madurai Road, Aruppukottai in favour of the petitioner.

For Petitioner : Mr.K.Sekar
For R1 : Mr.N.Dilipkumar
For R2 : Mr.S.C.Herold Singh

ORDER

This writ petition is filed as against the orders dated 15.09.2014 and 22.03.2016 passed by the first respondent/the Commissioner, Aruppukottai Municipality, changing the building property tax in the name of the second respondent.

2. The learned counsel appearing for the petitioner submits that a land has been leased out to the petitioner's father by the second respondent Sangam as vacant site. The petitioner's father only has put up a superstructure in the vacant land for running a rice mill. After his demise, the petitioner has inherited the said business and the superstructure. He is also paying property tax to the first respondent



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and paying the monthly rent of Rs.1372/- for the vacant site to the second respondent. The petitioner is also paying the building property tax to the 1st respondent under the assessment No.31070 for the superstructure constructed by them. Therefore, he is having a right of purchasing the property as per City Tenants Protection Act, for which, an application has also been filed by him before the District Munsif Court, Aruppukottai in C.T.O.P.No.1 of 2005.

3. The learned counsel appearing for the first respondent submits that admittedly, the property belongs to the second respondent and tax receipt originally stands in the name of the second respondent. However, it was detected that the tax receipt stands in the name of the petitioner, during the general survey conducted in the year 1998. Thereafter, on the objections raised by the second respondent Sangam, they have conducted an enquiry and ascertained that the land belongs to the second respondent. Therefore, the tax receipt has been restored in the name of the second respondent.



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4. The learned counsel appearing for the second respondent submits that the land belongs to the second respondent Sangam and they are intending to construct a School in the said premises, for which they have also made a request to the petitioner to vacate the premises. The petitioner, without vacating the premises, has filed a suit in O.S.No.160 of 1998 for recovery of alleged debt of Rs.10,000/- before the District Munsif Court, Aruppukottai and the same was dismissed on 11.07.2001. Thereafter, the second respondent has also filed a suit for recovery of possession in O.S.No.114 of 2005 and the same was decreed in favour of the second respondent on 23.10.2017. As against the same, the petitioner has preferred an appeal in A.S.No.28 of 2017 before the Sub Court, Aruppukottai and the same was also dismissed on 19.09.2019, against which, the petitioner has now preferred a Second Appeal and the same is pending before this Court in in S.A. (MD)No.564 of 2019. It is also reported that the petitioner has also filed yet another suit in O.S.No.169/2004 before the Principal District



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Munsif Court Aruppukottai, for declaration and permanent injunction, which was also dismissed with costs on 23.10.2017, against which, he filed an appeal suit before the Sub Court, Aruppukottai in A.S.No.29 of 2017 and the same was also dismissed on 19.09.2019. As against the concurrent findings, the petitioner has also filed another second appeal in S.A.(MD)No.354 of 2021.

5. Since the petitioner has lost in both the suits and the Civil Court has also passed a decree for recovery of possession in favour of the second respondent on 23.10.2017, the writ petition is dismissed with liberty to the petitioner to workout his remedy in the Second Appeals filed by him. No costs. Consequently, connected miscellaneous petition is closed.

12.10.2023

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.



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B.PUGALENDHI, J.

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