BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.22558 of 2023
and
WMP(MD)Nos.19590, 23095 and 24598 of 2023

Avinash Ravi ... Petitioner

Vs

1.The District Collector,
Collectorate Complex,
Dindigul.

2.The Tahsildar,
Athur Taluk Office,
Athur, Dindigul Post.

3.The Block Development Officer,
Panchayat Union Office,
Athur, Dindigul District.

4.The Panchayat Secretary,
Village Panchayt Office,
Manalur, Authur Block,
Dindigul District.

5.Nalini

6.S.Subbulakshmi ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to call for the impugned proceedings passed by the 3rd respondent in Na.Ka.No.774/2018/B2 dated 13.06.2019 and the subsequent house tax receipt issued to the 5th respondent by the 4th respondent and quash the same as illegal and also direct the 1st respondent to issue an order to the 3rd respondent to rectify the same in legal manner to issue the house tax receipt in te petitioner's name.

For petitioner	: Mr.Anantha Murugan for Ms. Vidhya.R
For Respondents Nos.1,2 and 4	: Mr.J.K.Jeyaseelan
For Respondent No.3	: Mr.A.K.Manickam Special Government Pleader
For Respondent Nos.5 and 6	: Mr.C.Sundaravadivel

ORDER

The petitioner and the 5th respondent have purchased some properties from one Chidambaram. The said Chidambaram was having 156.11 Acres in Manalur Village, Athur Taluk, Dindigul District. Through the power agent one Navaneethan the petitioner's vendor is said to have purchased the extent of 86.25 acres and the contesting respondent has purchased 69.86 acres. Now the petitioner and the 5th respondent have disputed with regard to the location of the staff quarters, which was constructed in the said lands. The petitioner claims that the staff quarters is situated in S.No.51/2A, whereas the 5th respondent claims that it is situated in S.No.51/7B3A. Under such circumstances, the BDO has assessed the property tax in favour of the of the 5th respondent and on the objections of the petitioner, the assessment was cancelled by order dated 29.05.2019 subject to the condition that the parties have to obtain certificate from the revenue officials. The 5th respondent has approached the Tahsildar, Athur Taluk to conduct survey on the subject property. The Tahsildar has also issued certificate on 11.06.2019 that this staff quarters is situated in S.No.51/7B3A and based on this report, the BDO has passed further orders in Na.Ka.No.774/2018/B2, dated 13.06.2019, revising the assessment in the name of the 5th respondent. Aggrieved over the same, the present writ petition is filed.

2.This Court has entertained this writ petition and also granted an order of interim stay. The 5th respondent has filed a vacate stay application.

3.The learned Counsel for the 5th respondent submits that based on the request the Tahsildar conducted survey, identified the subject property in S.No.51/7B3A and has issued the certificate. Only thereafter based on the certificate, the BDO has re-assessed the tax in the name of the 5th respondent.

4.In reply to the above, the learned Counsel for the petitioner submits that the Tahsildar is not the competent authority to issue such a certificate and there is no reference about the survey conducted by the Tahsildar before issuing the said certificate and therefore, the order passed by the BDO based on this certificate is not proper.

5.This Court considered the rival submissions and perused the materials placed on record.

6.There is no dispute with regard to the extent of the property purchased by the petitioner and the 5th respondent. The only dispute is whether it is located in in the petitioner's property in S.No.51/2A or in the 5th respondent's property in S.No.51/7B3A. The Tahsildar concerned has also issued certificate in favour of the 5th respondent that the building in dispute is situated in S.No.51/7B3A. The Tahsildar is the competent authority to conduct survey. The Tahsildar has conducted the survey based on the request of the 5th respondent and has also issued certificate. However, the petitioner contends that the survey has been conducted in the absence of the petitioner.

7.Considering the submissions made on either side, this Court directs 2nd respondent Tahsildar to conduct a fresh survey on 07.02.2024 in the presence of the petitioner and the 5th respondent and furnish the survey report to the parties concerned. Based on the report the parties shall work out their remedies under Section 11 of the Tamil Nadu Survey and Boundaries Act.

8. The petitioner and the 5th respondent shall be present in place in dispute on the above said day and they will not be issued with any separate notice for the said survey.

9.In the result, the writ petition is disposed of. No costs. Consequently connected miscellaneous petitions are closed.

13.12.2023

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B.PUGALENDHI, J.

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