



W.P. (MD) No. 28383 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 28383 of 2020

Najimun Nisha

... Petitioner

Vs.

1.The Block Development Officer,
Kadayam, Tenkasi District.

2.The President,
Ayandharmapuram Madam Village Panchayat,
Tenkasi Taluk and District.

3.Mydheen Meeral

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 and 2 to transfer the tax assessment in favour of the petitioner in respect of the house property belong door 5/295 situated at Sy.No.2/4 of Ayandharmapuram Madam Village by considering the petitioner's representation dated 14.09.2022.



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For Petitioner	: Mr. K.P.Narayanakumar
For R1 & R2	: Mr. S.P.Maharajan
	Special Government Pleader
For R3	: Mr. P.P.Alwin Balan

ORDER

Heard Mr. K.P.Narayanakumar, Learned Counsel appearing for the Petitioner, Mr. S.P.Maharajan, Learned Special Government Pleader for the First and Second Respondents and Mr. P.P.Alwin Balan, Learned Counsel for the Third Respondent and perused the materials placed on record apart from the pleadings of the parties.

2. The Petitioner in this Writ Petition is the daughter of one Adam Kani, who died on 31.10.2021, and she claims that the property in Survey No. 2/4, Ayandharmapuram Madam Village had been transferred in her favour by the said Adam Kani by Settlement Deed dated 24.03.2020, which has been registered as Document No. 1401 of 2020 in the Office of the Sub-Registrar, Ayandharmapuram Madam Village Panchayat and she has sought for change of name for payment of property tax for the said property in the Panchayat of



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the Second Respondent. However, the Second Respondent has denied the same by contending that on the basis of the Resolution dated 15.12.2009 passed by the Panchayat of the Second Respondent, the name of the Third Respondent had already been recorded as the owner of the said property and the property tax is collected from her then onwards.

3. In the Counter-Affidavit filed by the Third Respondent, it is contended that the said Adam Kani had transferred the property in her favour by oral gift viz., Hiba under the Mohammedan Law.

4. The Hon'ble Supreme Court of India in ***Roshna T. -vs- Abdul Azeez K.T.*** [(2019) 2 SCC 329] has reiterated the law that disputed questions of fact relating to property rights, which are private in character and do not have any element of public law involved, require full fledged trial by recording of evidence of parties and cannot be decided in a summary manner in proceedings under Article 226 of the Constitution of India. Having regard to the fact that the nature of the relief sought by the Petitioner against the Third Respondent falls within the realm of disputed questions, it is not possible to



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effectually determine it in a Writ Petition.

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5. In such circumstances, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to the Petitioner to work out her rights before the proper forum. It is made clear that no view has been expressed by this Court on the merits of the controversy involved in the matter.

In fine, the Writ Petition is dismissed a withdrawn granting such liberty. No costs.

16.02.2023

NCC : Yes/No

Index : Yes/No

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Note: Issue order copy on 27.02.2023



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To

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Kadayam, Tenkasi District.
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P.D.AUDIKESAVALU,J.

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