



W.A.(MD)Nos.1974 & 1975 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)Nos.1974 & 1975 of 2023

and

W.M.P.(MD)Nos.15432 & 15433 of 2023

VV.Rajendran

... Appellants in both W.As.

Vs.

The Tiruchirappalli Municipal Corporation,
Through its Commissioner,
Tiruchirappalli.

...Respondent in both W.As.

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent Act, to set aside the order passed in W.P.(MD)Nos.13726 & 13727 of 2021, dated 10.07.2023 on the file of this Court.

For Appellant : Mr.V.R.Shanmuganathan

For Respondent : Mr.K.R.Kishore Ram,

For M/s.R.B.Law Associates

(in both Writ Appeals)



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COMMON JUDGMENT

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(Judgment of the Court was delivered by ***V.LAKSHMINARAYANAN, J.***)

The property, which is the subject matter of the Writ Petition, originally belonged to one Venkitasamy Naidu. On his death, the said property was allotted to the writ petitioner's brother one VV.Loganathan. From the said VV.Loganathan, the writ petitioner had obtained the property. According to him, between Tiruchirappalli Municipal Corporation / respondent and the writ petitioner, a proceeding had taken place in O.S.No.1802 of 1996, which ended in decree on 26.03.2002. The said suit was for a declaration that enhancement of assessment is arbitrary and consequently, for relief of permanent injunction. The decree of the civil Court has been filed before us and we are able to see that on 26.03.2002 the suit had been decreed. Subsequently, the demand notice had been issued in the name of Venkitasamy Naidu. Challenging the same, the Writ Petition has been filed.

2.According to the learned counsel for the appellant, after being aware of the death of Venkitasamy Naidu, which has been disclosed in the suit, the respondent ought not to have issued the notice in the name of a dead person. The



learned Single Judge has taken this aspect into consideration and has given the following direction:-

“7. Therefore, the respondent is directed to issue notice for the period from 1993 onwards to the petitioner within a period of two weeks from the date of receipt of a copy of this order. The petitioner shall submit an explanation within a period of four weeks thereafter. If need be, personal hearing shall be granted to the petitioner and thereafter, the respondent shall pass an order in accordance to law.”

3.The learned Single Judge has not foreclosed the defences that are available to the writ petitioner and granted four weeks time to the writ petitioner to raise all his defences.

4.The only point urged before the learned Single Judge was that the notice was issued in the name of dead person. That has been rectified by the learned Single Judge by directing the respondent to issue notice in the name of the writ petitioner. Therefore, we do not find any error in the order impugned herein. It is always open to the appellant to raise all the defences including limitation that are available to him within the period already granted by the learned Single Judge.



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5. With the above observations, these Writ Appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S., J.) & (V.L.N., J.)

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

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S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

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