



W.P.(MD)No.26343 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.26343 of 2023

and

W.M.P.(MD)No.22677 of 2023

1. V.D.Narayanan

2. N.Ram Ganesh

... Petitioners

versus

1. The Commissioner,
Rajapalayam Municipality,
Rajapalayam,
Virudhunagar District.

2. The Assistant Engineer,
Tamil Nadu Electricity Board,
Rajapalayam Taluk,
Virudhunagar District.

3. M.K.Velayutharaja

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the 1st respondent herein to restore the property tax receipt for the house in Door Nos.31, 33 in old Door No.495/13, 498/13 in TSR No.72/1, 72/2,



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74/G Block No.14 of Rajapalayam Taluk, Virudhunagar District in the name of the 1st petitioner and consequential direction forbearing the 2nd respondent from disconnecting electricity supply to the petitioners' electricity service connection No.279-013-726 in the name of the 1st petitioner.

For Petitioners : Mr.A.Lakshmi Gopinathan
for M/s.Polax Legal Solutions

For R1 : Mr.N.Dilipkumar

For R2 : Mr.S.Deenadhayalan

ORDER

The petitioners with a grievance that the first respondent Municipality has transferred the tax receipt for the petitioners' house in Door No. 31, 33 in old Door No.495/13, 498/13 in TSR No.72/1, 72/2, 74/G Block No.14 of Rajapalayam Taluk, Virudhunagar District in the name of the 3rd respondent, filed this writ petition for a Mandamus, forbearing the 2nd respondent from disconnecting their electricity service connection.



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2. The learned counsel appearing for the petitioners submits that the first petitioner is the father of the second petitioner. The properties in Survey Nos.72/1, 72/2 ad 74 in Ward No.24, Block G, Rajapalayam, Virudhunagar District, originally belonged to one Duraisamy Raja and during his life time, a partition was effected through a partition deed registered as Document No.1317/1845 and the above properties were devolved to the first petitioner's maternal grandmother one Pappammal and from her, the first petitioner inherited the above properties through a Will dated 21.06.2006, registered as Document No.83/2006.

3. The learned counsel appearing for the petitioners further submits that the first petitioner is in occupation of the properties and therefore, the electricity service connection was given to him from the year 2018. While so, the property tax receipt for the abovesaid properties was transferred in the name of 3rd respondent, without issuing any notice to the first petitioner. Therefore, the first petitioner has filed a writ petition before this Court and also filed an appeal



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before the Revenue Divisional Officer, Rajapalayam. While so, the first respondent Municipality, has passed an order, transferring the property tax receipt in the name of the 3rd respondent. Consequently, the second respondent/Electricity Board has also attempted to disconnect the petitioner's electricity service connection. Therefore, the present writ petition has been filed.

4. Mr.N.Dilip Kumar, learned Standing Counsel, who takes notice for the first respondent, submits that the above properties originally stood in the name of one M.D.Krishnamaraja, father of the 3rd respondent herein. The property tax was transferred in the name of the 3rd respondent, after the demise of his father Krishnamaraja on 29.09.2008. While so, it has been transferred in the name of the petitioner. Therefore, the 3rd respondent has made a representation for transferring the property tax receipt in his name, based on which, the property tax assessment for the said properties has been restored in the name of the 3rd respondent on 17.01.2018. Again, the property tax



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receipt has been transferred in the name of the first petitioner.

Therefore, the 3rd respondent made another representation to the first respondent Municipality, on the strength of the dismissal order dated 10.12.2021 passed by the District Munsif Court, Rajapalayam, in I.A.Nos.1 and 2 of 2021 in O.S.No.118 of 2021 filed by the first petitioner herein. The first respondent has also conducted an enquiry by issuing a notice to the first petitioner through a registered post on 21.07.2023, which was returned as unclaimed. Therefore, the first respondent has proceeded further and passed an order by restoring the property tax assessment in the name of the 3rd respondent Velayutharaja.

5. The first respondent provided an opportunity by issuing a notice through a registered post and an enquiry was conducted based on the dismissal order passed by the District Munsif Court, Rajapalayam, in I.A.Nos.1 and 2 of 2021 in O.S.No.118 of 2021, dated 10.12.2021.



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6. Mr.S.Deenadhayalan, learned Standing Counsel appearing for the 2nd respondent submits that on the representation of the 3rd respondent, a show cause notice has been issued to the first petitioner calling upon him to submit his explanations for disconnecting the service connection, granted to him based on the property tax receipt produced by him.

7. This Court considered the rival submissions made and perused the materials available on record.

8. It appears that the first petitioner is having a dispute with the 3rd respondent with regard to the subject properties. The first petitioner has filed a suit before the District Munsif Court as against the 3rd respondent in O.S.No.118 of 2021. In the said suit, the first petitioner has also filed an interlocutory applications in I.A.Nos.1 and 2 of 2021 seeking interim injunction, which were dismissed by the District



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Munsif Court, Rajapalayam, on 10.12.2021. However, the first petitioner has not placed these materials before the learned counsel at the time of filing this writ petition. Since the petitioners have approached this Court with unclean hands, this Court is not inclined to entertain this writ petitioner.

9. Since the suit in O.S.No.118 of 2021 filed with regard to the subject properties is pending before the District Munsif Court, Rajapalayam, the petitioners can work out their remedy before the District Munsif Court, Rajapalayam, in O.S.No.118 of 2021.

10. Accordingly, this writ petition is disposed of with liberty to the petitioners to work out their remedy before the District Munsif Court, Rajapalayam, in O.S.No.118 of 2021. The District Munsif Court, Rajapalayam is directed to conclude the suit in O.S.No.118 of 2021, within a period of four months from the date of receipt of a copy of this order. The second respondent shall defer the enquiry till the



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disposal of the suit in O.S.No.118 of 2021. The petitioners and the 3rd respondent shall co-operate for early disposal of the suit in O.S.No.118 of 2021 pending before the District Munsif Court, Rajapalayam. No costs. Consequently, connected miscellaneous petition is closed.

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

To

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Rajapalayam,
Virudhunagar District.
2. The Assistant Engineer,
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