IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2024

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.10225 of 2024
and W.M.P.No.11276 of 2024

N.Venugopal ...Petitioner

Vs.

1.The Commissioner,
Greater Chennai Corporation,
Chennai.

2.The Assistant Revenue Officer,
Zone 10, Kodambakkam,
Chennai.

3.N.Chandrababu ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified mandamus to call the second respondent to change in the name of the 3rd respondent in property tax assessment No.1014000142000 is same as a illegal and quash the same and consequential direction to direct the 2nd respondent to change the property tax in the name of the petitioner and two others.

For Petitioner : Mr.K.Rajendra Prasad.
For respondents : Mr.E.C.Ramesh, Standing Counsel.

O R D E R

This writ petition has been filed to direct the second respondent to change the name of the 3rd respondent in property tax assessment No.1014000142000 and to direct the 2nd respondent to change the property tax in the name of the petitioner and two others.

2. The case of the petitioner is that the property in SF.No.100/1 Block No.18, Door No.1, Rangappan Street, West Mambalam, Chennai -33 admeasuring to an extent of 3300sq.ft was purchased by mother of the petitioner Bhangarauammal w/o.Narayanasamy vide sale deed dated 20.02.1952 in Doc.No.283/1952 on the file of SRO Saidapet. The father of the petitioner died intestate on 29.12.1993 leaving behind the mother, 3 sons and 4 daughters as the legal heirs. The petitioner being the elder son had taken all arduous responsibility and taking care of the family welfare. Under these circumstances, the mother of the petitioner out of love and affection had decided to settle 2/3rd share in the property in favour of the petitioner and Balakrishnan (bother) and executed a settlement deed in Doc.No.230/2003 on the file of SRO, T.Nagar and delivered possession of the property without metes and bounds. During the lifetime of the mother of the petitioner, she had constructed ground floor, first floor thatched

house and five commercial shops in the said property. The petitioner is in absolute possession and enjoyment of the dwelling house and the 3rd respondent has cost various hindrances in occupation of the property by adopting illegal means.

3. Subsequently, the petitioner filed comprehensive suit for partition and separate possession in CS.No.705/2015 before this Court, during pendency of the suit, the 3rd respondent had attempted to disturb the peaceful possession of the petitioner, thereby the petitioner filed OA.No.1239 of 2017 seeking interim injunction not to disturb the peaceful possession of the petitioner, the same was granted by this Court on 09.04.2018. Aggrieved against the same, the 3rd respondent filed OSA.No.383 of 2018 in CS.No.705 of 2015, the same was dismissed by the Division Bench of this Court on 16.03.2020. Thereafter, the suit was transferred to the file of III Additional City Civil Court, Chennai and renumbered as OS.No.7476 of 2019 and the suit is still pending.

4. In the meanwhile, the 3rd respondent fraudulently mutated the property tax assessment No.1014000142000 in his name. Thereafter, the petitioner has made a representation to the 2nd respondent on 29.08.2022

to change the name in the property tax assessment No.1014000142000 along with all relevant documents. Based on the representation of the petitioner, the second respondent initiated enquiry in Ma.Aa.10.Va.thu.Na.Ka.No.R3/12327/2023 dated 22.09.2023, the petitioner had already filed all the documents and during enquiry the 3rd respondent has not filed any documents, till date the 2nd respondent has not effected any name transfer in the property tax and as on date the property tax stands in the name of the 3rd respondent. The petitioner left with no other option filed the present writ petition.

5. The learned standing counsel appearing for the respondents would submit that on perusal of the settlement deed in Doc.No.230/2003 dated 05.02.2003, inheritance certificate dated 15.10.2020 and probate order in OP.No.566 of 2016 dated 21.04.2021, the petitioner/N.Venugopal, N.Balakrishnan and N.Chandrababu were called for enquiry by the second respondent.

6. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents and perused the materials available on record.

7. On perusal of the records, the second respondent had conducted enquiry based on the representation of the petitioner for effecting name transfer. But till date no orders had been passed on the enquiry and no name transfer has been effected in the property tax assessment. Further based on the documents, the petitioner/N.Venugopal, N.Balakrishnan and N.Chandrababu/3rd respondent are having equal rights over the property. At this juncture, the standing counsel for the respondents seeks time to conduct fresh enquiry and to pass orders thereon.

8. In view of the above, this writ petition is disposed of with a direction to the second respondent to conduct fresh enquiry and to pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. The second respondent is directed to issue prior notice to all the parties concerned to participate in the enquiry along with available documents. No costs. Consequently, connected miscellaneous petition is closed.

16.04.2024

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Internet : Yes
Index : Yes
Speaking order : Yes / No

V.BHAVANI SUBBAROYAN, J.

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To
1.The Commissioner,
Greater Chennai Corporation,
Chennai.

2.The Assistant Revenue Officer,
Zone 10, Kodambakkam,
Chennai.

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