



W.P.(MD)No.7725 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.7725 of 2021
and
W.M.P.(MD)Nos.5880 and 5881 of 2021

Pandian

... Petitioner

Vs.

1. The Commissioner,
Kayalpattinam Municipality,
Kayalpattinam Post,
Tuticorin.

2. Zaithoon Beevi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order dated 05.03.2021 on the file of the first respondent and to quash the same and further directing the first respondent to assess the property tax in respect of the property comprised in S.No.89/2 situated at Kayalpattinam Village, Tuticorin District in the name of the petitioner.



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For Petitioner : Mr.Vinoharan
for Mr.G.Prabhu Rajadurai

For R1 : Mr.V.Nirmal Kumar

For R2 : Mr.M.P.Senthil

ORDER

The Writ Petition is directed against the order dated 05.03.2021 passed by the first respondent and for directions to the first respondent to assess the property tax in respect of the property comprised in Survey No.89/2, situated at Kayalpattinam Village, Tuticorin District in the name of the writ petitioner.

2. The learned counsel appearing for the first respondent would submit that since the Revenue Divisional Officer, Tiruchendur, vide his proceedings, dated 23.07.2013 has cancelled the writ petitioner's name from the patta and the same was issued in favour of the second respondent, they were constrained to cancel the assessment existed in favour of the writ petitioner.



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3. The learned counsel appearing for the writ petitioner and the learned counsel appearing for the second respondent would submit that the second respondent has filed a suit in O.S.No.572 of 2017 seeking declaration and recovery of possession of the property in dispute and the same is pending for arguments.

4. It is not in dispute that as of now, the writ petitioner is in possession of the property and he was paying property tax till it was cancelled by the first respondent.

5. Since the civil suit with regard to the title to the property in dispute is pending before the competent civil Court and also taking note of the fact that the writ petitioner is in possession and was paying property tax earlier, this Court is of the view that the first respondent has to be directed to receive the property tax, subject to a condition of filing an affidavit by the writ petitioner that they will not claim any right on the basis of the receipt of tax by the first respondent. It is pertinent to note that the entire dispute is subject to the result of the suit that is pending before the competent civil Court.



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6. In the result, this Writ Petition is disposed of, with a direction to the writ petitioner to file an affidavit referred above before the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to restore the assessment and receive the tax subject to the result of the suit in O.S.No.572 of 2017. Consequently, connected Miscellaneous Petitions are closed. No costs.

27.06.2024

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

To

1. The Commissioner,
Kayalpattinam Municipality,
Kayalpattinam Post,
Tuticorin.



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K.MURALI SHANKAR, J

csn

Order made in
W.P.(MD)No.7725 of 2021
and
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Dated : 27.06.2024