

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.Nos.6420/2016 & 6465/2016 & WMP.No.5746/2016 in

WP.No.6465/2016

V.C.Ravikumar .. Petitioner in both
the writ petitions

Versus

1.The Commissioner
Tiruttani Municipality,
Municipal Office, Tiruttani Town.

2.Mrs.S.Lakshmi Rekha .. Respondents in
WP.No.6420/2016

1.The Superintending Engineer
Kancheepuram Electricity Distribution
Circle, Tamil Nadu electricity Generation
& Distribution Co., Olimohamedpet
Kancheepuram.

2.The Assistant Executive Engineer [Operation & Maintenance]
Tiruttani Town, Kancheepuram Electricity Distribution Circle
Tamil Nadu Electricity Generation & Distribution Co
Tiruttani.

3.The Junior Engineer [Operation & Maintenance]
Tiruttani-Town, Kancheepuram Electricity Distribution Circle
Tamil Nadu Electricity Generation & Distribution Co
Tiruttani.

4.Mrs.S.Lakshmi Rekha .. Respondents
in WP.No.6465/2016

Prayer in WP.No.6420/2016:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the first respondent to consider the representations of the petitioner dated 04.12.2015 requesting cancellation of separate and new assessment under assessment No.11134 for the 1st floor of the property bearing Door No.15/7 Krishama Chetty Street, Tiruttani Town, Tiruvallur District in favour of Mrs.Lakshmi Rekha and within the time to be fixed by this Court.

Prayer in WP.No.6465/2016:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 3rd respondent in f/vz;/,/kp/bgh-,/g/-e-jpU/nfh-bg/kh-vz;/349-2015 dated 08.09.2015 effecting name transfer in favour of Mrs.Lakshmi Rekha from the petitioner's name in respect of Electricity Service Connection bearing account No.342-015-145 in the premises bearing Door No.15/7 Krishnama Chetty Street, Tiruttani Town, Tiruvallur District and quash the same as against the provision of the Electricity Act, 2003 and the regulations as framed by the Tamil Nadu Electricity Regulatory Commission and direct the respondents 1 to 3 to restore the service connection to the petitioner's name within the time limit to be fixed by this Court.

For Petitioner in
both the writ petitions : Mr.M.Venkatakrishnan

For R1 in WP.No.6420/2015 : Mr.E.M.S.Natarajan

For RR 1 to 3 in WP.No.6465/15: Mr.S.K.Rameshwar

COMMON ORDER

Heard the learned counsel appearing for the petitioner both in the writ petitions ; Mr.E.M.S.Natarajan, learned Standing Counsel accepting notice on behalf of the 1st respondent in WP.No.6420/2016 ; and Mr.S.K.Rameshwar, learned Standing Counsel accepting notice on behalf of the respondents 1 to 3 and with their consent, the writ petitions are taken up for final disposal at the admission stage and the following common order is passed.

2 The petitioner filed WP.No.6420/2016 seeking for issuance of a writ of mandamus to direct the 1st respondent to consider his representation dated 04.12.2015 to cancel the property tax assessment in respect of the first floor of his residential house in favour of his sister [2/4th respondent] and also filed WP.No.6465/2016 to quash the impugned proceedings dated 08.09.2015, by which, the electricity service connection in respect of the said first floor of the residential house was transferred in the name of his sister [2/4th respondent].

3 The dispute between the petitioner and his sister, the 2/4th respondent herein, has lead to the filing of the above two writ petitions. The dispute is concerning the immovable property, viz., a dwelling house, bearing Door No.15/7 Krishama Chetty Street, Tiruttani Town, Tiruvallur District. The Property Tax Assessment stood in the name of the petitioner's mother Tmt.V.Radhabai Ammal. The petitioner's mother executed a

Gift Settlement Deed dated 05.10.2012 in favour of the petitioner vide Document No.6827/2012 on the file of the Sub Registrar, Tiruttani. Based on the said Settlement Deed, the petitioner applied for the change of the name of the Property Tax Assessment and this was favourably considered and the 1st respondent/the Commissioner of Tiruttani Municipality, has transferred the Property Tax Assessment in respect of the entire property in favour of the petitioner herein vide proceedings dated 05.03.2015. The petitioner has also paid the Property Tax and two receipts, dated 22.04.2015 and 06.05.2015 have been produced before this Court. Thereafter, the petitioner came to understand that the Property Tax Assessment in respect of the first floor was transferred in the name of his sister [2/4th respondent] by assigning a new assessment number to the first floor premises. The petitioner was not aware of the full details and therefore, he sought for information under the Right to Information Act, 2005, by submitting an application dated 30.10.2015. The Information Officer of the 1st respondent / Municipality, by reply dated 23.11.2015, stated that the Property

Tax Assessment has been made in respect of the first floor of the premises in the name of the petitioner's sister [2nd / 4th respondent], based on a registered Will executed by the petitioner's mother bearing Document No.40/1987. The petitioner immediately sent his objection on 04.12.2015 and pointing out that the entire property has already been settled in the name of the petitioner and the question of the Will being put to use does not arise since the petitioner's mother is alive till date. Based on the objection given by the petitioner, a notice was issued to the petitioner dated 02.02.2016 calling upon the petitioner to produce the parent document, patta, Encumbrance Certificate from the year 1987 and the Documents No.40/1987, 66/2002 and 6327/2012. The petitioner has sent a detailed reply by Registered Post enclosing copies of the documents called for. The said reply has been received by the office of the 1st respondent on 11.02.2016 as could be seen from the Postal Acknowledgment Card.

4 The grievance of the petitioner is that till date no further action has been initiated by the 1st respondent. Therefore, the petitioner is before this Court seeking for a direction to consider his representation dated 04.12.2015 and to take appropriate action for cancellation of the Property Tax Assessment in the name of his sister [2nd / 4th respondent].

5 Based on the Assessment made in the name of his sister, she appears to have transferred the Electricity Service Connection in her name. Therefore, the petitioner has submitted representation to the Assistant Executive Engineer of the Electricity Board as well as to the Junior Engineer, objecting

to the transfer of the electricity service connection. In response to the said representation, a reply was sent by the Assistant Executive Engineer on 11.12.2015, stating that the transfer was effected based on the Property Tax Assessment in the name of his sister and if he produces necessary records within 30 days, action will be initiated. Therefore, the petitioner has filed WP.No.6465/2016 to quash the order passed by the Junior Engineer, Kancheepuram Electricity Distribution Circle dated 08.09.2015 effecting name transfer in favour of his sister and to restore the service connection in the name of the petitioner.

6 After hearing the learned counsel for the petitioner as well as the learned Standing Counsels appearing for the Municipality and the Electricity Board, it appears that the Property Tax Assessment made in the name of the petitioner for the entire premises, now stands cancelled in respect of the first floor as it has been assessed in the name of his sister. This has been done without notice to the petitioner. When the petitioner objected to the same, the 1st respondent has called upon him to produce the documents vide notice dated 02.02.2016. This direction has been complied with by the petitioner by submitting a reply on 09.02.2016. However, no further action appears to have been taken.

7 Since this Court is inclined to dispose of the writ petitions at the admission stage, without notice to the petitioner's sister [2nd/4th respondent], the merits of the allegations are not gone into. Since the 1st respondent, viz., the Commissioner of Tiruttani Municipality, has called for the necessary records, it is but appropriate for him to proceed with the matter and take into the logical end.

8 Hence, there will be a direction to the Commissioner of Tiruttani Municipality to consider the reply/objection given by the petitioner dated 09.02.2016, issue notice to the petitioner and his sister [2nd / 4th respondent], hear the parties in person, perused the documents and proceed in accordance with law. The above direction shall be complied with by the Commissioner of Tiruttani Municipality within a period of six weeks from the date of receipt of a copy of this order. Subject to the orders that may be passed by the Commissioner, Tiruttani Municipality, pursuant to the above direction, the Electricity Board shall initiate appropriate action on the petitioner's representation.

9 The writ petitions are disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The Commissioner,
Tiruttani Municipality,
Municipal Office, Tiruttani Town.
- 2.The Superintending Engineer,
Kancheepuram Electricity Distribution,
Circle, Tamil Nadu electricity Generation,
& Distribution Co., Olimohamedpet,
Kancheepuram.
- 3.The Assistant Executive Engineer [Operation & Maintenance],
Tiruttani Town, Kancheepuram Electricity Distribution Circle,
Tamil Nadu Electricity Generation & Distribution Co,
Tiruttani.
- 4.The Junior Engineer [Operation & Maintenance],
Tiruttani-Town, Kancheepuram Electricity Distribution Circle,
Tamil Nadu Electricity Generation & Distribution Co,
Tiruttani.

+1cc to M/S.S.K.Rameshwar, Advocate, S.R.No.11264
+2cc to M/S.M.Venkatakrishnan, Advocate, S.R.No.11090

WP.Nos.6420/2016 & 6465/2016

ak[co]
srg 2/3/2016