

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION NO.12789 of 2015

ORDER:

Heard Sri Mohd.Moinuddin for petitioner, Sri Praveen Kumar, Sri S.V.S.S.Siva Ram and Sri M.P.Chandramouli for respondents 2 to 4 respectively.

The petitioner and the 4th respondent are children of D.Venkateswar Rao. The subject matter of writ petition is premises bearing No.12-143/5 situated within the limits of Kodad Municipality, Nalgonda District. The 2nd respondent through proceeding impugned in the writ petition changed the entry in assessment register from petitioner to 4th respondent. The order of change dated 06.01.2015 was passed in terms of G.O.Ms.No.1059, Municipal Administration, dated 15.12.1966 under the A.P. Municipalities (Alteration of Ownership of Property in Assessment Books Rules, 1966 (for short 'the Rules').

Rule 3 of the Rules reads thus:-

“Transfers by voluntary action of owner:- In a case of absolute transfer of title, the entries relating to property in the assessment books may be altered in accordance with application made in this behalf by either or both the parties to the transfer. Every application for alteration of entries shall be made in writing and signed by the person or persons making it. It may be sent by post or presented in person or by duly authorized agent, or through an officer of the Registration Department. Where such an application is presented by both the parties to the transfer and one of them is the owner whose name appears in the assessment book, change of registry

entries as requested may be ordered at once. But where only one of the parties to the transfer makes the application, notice shall be served on the other party. Where the said owner is not a party to the transfer, notice shall also be issued to him whether the application for alteration of entries in the assessment book is presented by both the parties or one of them. If the said owner objects to the proposed alterations, no alterations shall be made unless the person who claims to be the owner produces the document whereby the ownership of the property has been transferred to him. Where only one party to the transfer applies and the other either objects or is silent, the parties should produce relevant documents in support of their claims. In the absence of any such documents the claims should be established by secondary evidence, such as statements of respectable persons and tax receipts. A month's time shall be allowed for filing objections; and, if any objection is made, an enquiry shall not be held and unless the objection is found to be valid, entries in the assessment book shall be not altered."

Now reverting back to the facts in issue between the parties, the case of 4th respondent is that through registered Document No.2150/1973 she is the absolute owner and possessor of premises bearing No.12-143/5. The 4th respondent allowed her father to remain in possession of the subject matter of writ petition and the petitioner taking advantage of a few circumstances of their father, which are not referred in this order, without there being a proceeding of transfer of right or title got her name entered in the assessment books of Gram Panchayat and the same position is continued by the 2nd respondent Municipality as well. Therefore, a request was made to maintain the entry in accordance with the documents relied on by 4th

respondent. The 2nd respondent on the request for correction of entry in the register issued notice, received explanation and passed order under Rule 3. The order passed under Rule 3 is appealable under Rule 7 of the Rules.

The case of writ petitioner is that the writ petitioner has got absolute right to the subject matter of writ petition under family settlement or arrangement. The name of petitioner has been shown in records for quite sometime and the transfer as requested by the 4th respondent virtually amounts to cancelling an entry by performing the functions of appellate authority, thereafter restoring the name of the 4th respondent is impermissible.

This Court in normal circumstances would have relegated parties either to work out their prayers before Civil Court or avail the remedy of appeal under Rule 7 against the order impugned in the writ petition. The piquant situation in which the 4th respondent is placed, as contended by M.P.Chandra Mouli, is that there is no order basing on which the name of petitioner is entered in the assessment book and it is the responsibility of Municipal Council to maintain and continue to maintain the entries in assessment book as per the entitlement of a party.

The counsel for petitioner does not object to consideration of 4th respondent's application by the Council, for the entry in assessment book is an annual affair.

The statement of Sri Moinuddin is placed on record.

The proceeding impugned in the writ petition for the above reasons is set aside, matter remitted to council of Kodad Municipality to look into the complaint of the 4th respondent on the entries in assessment register for premises bearing No. 12-143/5 and examine the documents on which the 4th respondent is relying upon and also consider the explanation of petitioner and documents, if any, produced in this behalf, and pass orders within six weeks from the date of receipt of a copy of this order.

The petitioner or 4th respondent is given liberty to enclose a copy of this order along with documents/explanation on which they are relying upon for taking timely decision by the Council within two weeks from today. It is further made clear that the application of 4th respondent is directed to be considered by the Council, for the petitioner is unable to produce any proceeding basing on which mutation was carried out by the erstwhile Gram Panchayat in her name.

The writ petition is ordered as indicated above. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 04.10.2017
Prv

