THE HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No.37066 OF 2016

ORDER:

Heard the learned counsel for the petitioner as well as the learned Standing Counsel appearing for 2nd respondent-Municipal Corporation and learned counsel for 3rd respondent.

The prayer in the writ petition is as under:

> ".....to issue a writ or order or direction more fully in the nature of writ of mandamus declaring the action of the respondents in issuing endorsement vide proceedings of the 2nd respondent dated 23-09-2016 in C.C.No. /2016-A2, cancelling petitioner's House assessment No 39834-A pertaining to his house bearing Door No 44-14-42 situated at Thota Veedhi Annapurnammapeta, Rajamahendravaram, East Godavari District is illegal, improper, arbitrary and contrary to law and provisions of A.P. Municipal Corporation Act, violative of Article 19 and 21 of the Constitution of India besides being opposed the principles of Natural Justice and consequently set aside the proceedings of the 2nd respondent dated 23-09-2016 in C.C.No. /2016-A2, cancelling the assessment No.39834-A pertaining to petitioner's house Door No 44-14-42 situated at Thota Veedhi, Annapurnammapeta, Rajamahendravaram, East Godavari District and pass such other order..."

The facts of the case are that the petitioner is the absolute owner of the premises bearing door No.44-14-42 situated at Thota Veedhi, Annapurnammapeta, Rajamahendravaram, East Godavari District, having purchased the same under a registered sale deed dated 04.03.1974. After the purchase of said property, the petitioner's premises was assessed under assessment No.398348-A and since then he has been paying the tax to the respondent-Corporation till date. While the matter stood thus, in the year 1979, the petitioner filed a suit in O.S.No.856 of 1979 for declaration of title against the 3rd respondent on the file of the I Additional District Munsif, Rajamahendravaram. However, the same is dismissed by order dated 19.08.1993. Aggrieved by the same, the petitioner has filed an appeal in A.S.No.83 of 1993 on the file of the II Additional District Judge, East Godavari, Rajamahendravaram. However, the same was also dismissed on 10.03.2000. The 2nd respondent-Corporation issued a notice dated 05.02.2013 in proceedings ROC.No.1040/2013-A3 stating that a complaint has been received from the 3rd respondent herein that the house has been wrongly assessed. In response to the said notice, the petitioner got issued a reply to the 2nd respondent-Corporation on 10.02.2013 stating that he is the absolute owner and has been in possession and enjoyment of the property bearing No.44-14-42. It is also stated in the said reply that he is paying tax under Assessment No.39834-A. However, since the 2nd respondent-Corporation without considering the reply submitted by the petitioner, issued proceedings in ROC.No.1040/2013-A3 dated 11.03.2013 cancelling the said assessment in respect of the property in question. Challenging the same, the petitioner filed W.P.No.11256 of 2013 before this Court and after hearing, the same was disposed of on 15.04.2013 by setting aside the said notice and directed the 2nd respondent-Corporation to pass a reasoned order after considering the explanation submitted by the petitioner. In spite of the orders passed by this Court in the above said writ petition, it appears, the 2nd respondent-Corporation has passed the impugned proceedings which are under challenge in the present writ petition in the form of endorsement dated 23.09.2016 in C.C.No…/2016-A2. A perusal of the said impugned proceedings would reveal that the explanation submitted by the petitioner, is not considered and cancelled the petitioner's assessment No.398348-A pertaining to his premises bearing door No.44-14-42 situated at Thota Veedhi, Annapurnammapeta, Rajamahendravaram, East Godavari District.

In fact, this Court in W.P.No.11256 of 2013 has categorically directed the 2nd respondent to pass a reasoned order after considering the explanation submitted by the writ petitioner. However, in spite of there being a direction, the 2nd respondent-Corporation once again issued the present impugned proceedings, which shows the highhandedness of the 2nd respondent-Corporation.

Be that as it may, during the course of arguments, it is brought to the notice of this Court by the learned Standing Counsel appearing for the 2nd respondent-Corporation that the name of the petitioner has been restored in the Municipal records under assessment No.1064065636. As such, no further cause would survive in the present writ petition.

Recording the said submission made by the learned Standing Counsel for the 2nd respondent-Corporation, this Court feels that no further cause would survive in the present writ petition and the same is liable to be closed.

Accordingly, the writ petition is closed. No costs.

The Miscellaneous Petitions, if any, pending shall stand closed.

JUSTICE P.KESHAVA RAO

Date : 20.04.2018
ssp