IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2019

CORAM

THE HON'BLE Mr. JUSTICE M.DHANDAPANI, J.

W.P.No.13597 of 2009

Mr. V. Janarthanan ...Petitioner

Vs

1. The Commissioner,
Ootacmund Municipality,
Oatacmund, Nilgiris District.

2. Mr. M. Belli
(R2 Impleaded as per order dated 16.11.2009 by KVJ in Mp.No.3 of 2009 in W.P.No.13579 of 2009)

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned notice Na.Ka.No.6251/09/A2 dated 26/06/2009 issued by the respondent on 08/07/2009 vide reference for the property assessment numbers 6526 and 6527 pertaining to the property bearing Door.No.65/8, Vandisolai, Ootacumund, Nilgiris District comprised in T.S.No.4283/1B1 and quash the same and consequently direct the respondent to restore the said property tax assessment order in the name of the petitioner and to collect the tax in respect of the above said property.

For Petitioner : R. Narendran

For Respondents: M/s. E. Ranganayaki (for R1)



O R D E R

The petitioner is challenging the notice Na.Ka.No.6251/09/A2 dated 26/06/2009 issued by the respondent on 08/07/2009 vide reference for the property assessment numbers 6526 and 6527 pertaining to the property bearing Door.No.65/8, Vandisolai, Ootacumund, Nilgiris District comprised in T.S.No.4283/1B1.

2. The petitioner is the owner of the property bearing No.65/8, Vandisolai, Ootacmund, Nilgiris District and comprised in R.S.No.4283/1B1. The petitioner purchased the property vide registered sale deed 5/03/2007 from one M.Bellie by paying valuable consideration and the same was registered as Doc.No.396/2007 in the office of the Sub-Registrar Ootacumund. At the time of purchase of the property, the same was vacant land and it was represented by the vendor that earlier he had put up a small construction over the said land and assessed tax and he has removed the same, since it was not used by anyone.

3. The petitioner after the purchase, applied for change of patta in his name to the Revenue Authorities on 12.10.2007. The Zonal Deputy Thasildar after receipt of the report from the Village Administrative Officer issued a joint patta and transferred in the name of the petitioner . Subsequent to the purchase of the said property, the petitioner had put up a construction over the said land and applied to the respondent on 18.07.2008 to assess the property tax.

4. The respondent in proceedings dated 14.08.2008 transferred the name in the Revenue records and assessed property tax in the petitioner's name and collected the property tax.

5. Thereafter the petitioner made application to the Tamil Nadu Electricity Board for service connection, the service connection was transferred in the name of the petitioner on 22.10.2008. While being so, respondent issued notice for unauthorized construction and also charged the petitioner. Thereafter, the petitioner paid fine for the violation of the unauthorized construction on 23.07.2008 in the Judicial Magistrate Court Ootacumund. Subsequent to that respondent had issued a demolition notice calling the petitioner to demolish the unauthorized construction put up by him by order dated 4.11.2008.

6. Thereafter, the petitioner applied for a regularization of the building to the respondent and also paid necessary fees on 12.12.2008. While that being so, petitioner received a copy of impugned notice dated 26.06.2009 from the respondent addressed to his vendor and a copy marked to the petitioner stating that the petitioner had purchased only the vacant land from Mr.Bellie through Power agent one Thilagavathi and no property tax assessment order was mentioned in the sale deed. Hence, the assessment order transferred in petitioner's name was canceled and the same is re transferred in the name of petitioner's vendor. Challenging the same, the present Writ Petition is filed.

7. Learned counsel appearing for the petitioner would submit that though at the time of purchase the property a small portion was put up by the vendor however the small construction is not mentioned in the sale deed. Thereafter, the petitioner constructed the superstructure in the above said property and applied for property assessment and also obtained electricity connection. After construction, the respondent taken action against the petitioner for unauthorized construction when regularization was also pending before the respondent. While being so, the respondent illegally, without giving any opportunity and arbitrarily issued the notice cancelling the name of the petitioner from the property and re transfered it in the name of the vendor of the petitioner.

8. Admittedly, the case of the petitioner is that the petitioner purchased the property from the second respondent. On perusal of the sale deed dated 5.03.2017, it reveals that no constructed portion was mentioned in the sale deed and it is only a vacant land. After construction, the respondent issued a demolition notice. However, no records are produced before this Court to show that the petitioner made construction over the land after obtaining approval. The petitioner did not mention that immediately after the purchase, he applied for planning permission. Only after the demolition notice, he applied for the regularization. The petitioner is accountable for having constructed the superstructure over the above said land without approval of planning permission. Hence, the respondent has rightly cancelled the property tax assessed in the name of the petitioner. I do not find any error or infirmity in the order passed by the 1st respondent and accordingly the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

mrn

To

The Commissioner,
Ootacmund Municipality,
Oatacmund, Nilgiris District.

W.P.No.13597 of 2009

VG II(CO)
GMY(12/07/2019)