

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.06.2019

CORAM
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29637 of 2008
and
M.P.No. 2 of 2008

C.Eswaran

...Petitioner

Vs.

1.The Commissioner
Erode City Municipal Corporation
Erode.

2.C.Palanisamy

3.C.Gunasekaran

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records relating to the order of the 1st respondent in his proceedings in Pa.Ko.51/Pe.Ma.M.No.A6/27/08 dated 14.03.2008 and the consequential letter of the 1st respondent in his Na.Ka.No.A6/9878/08 dated 19.11.2008 and to quash the same.

For Petitioner : Mr.R.G.Narendhiran

For Respondents : Mr.P.Rajavel for R1
Mr.T.R.Rajaraman for R2 & R3

O R D E R

The Writ petition has been filed by the petitioner, to issue a writ of Certiorari, to call for the records relating to the order of the 1st respondent in his proceedings in Pa.Ko.51/Pe.Ma.M.No.A6/27/08 dated 14.03.2008 and the consequential letter of the 1st respondent in his Na.Ka.No.A6/9878/08 dated 19.11.2008 and to quash the same.

2.The case of the petitioner is that the petitioner and the respondents 2 & 3 are brothers. Their father Chinnappa Gounder died leaving behind his sons the petitioner and the respondents 2 & 3 and his wife Rajamani Ammal as his legal heirs. The said Chinnappa Gounder was carrying on business of supplying Beedi and Cigarette to the petty shops and the family was living in a rental house at Nachiappa Street. While the petitioner was studying in 9th Standard, the father could not do

his business due to old age and the burden of maintaining the family was shifted to the petitioner. The petitioner stopped his education and started carrying on father's business at the very younger age. The respondents 2 & 3 were at the age of 13 and 8 respectively during that time. Out of sheer hard work, trust and sincerity, the petitioner has taken care of the family and the education was given to the respondents 2 & 3 from and out of the income derived from the business and obtained loan from private parties, purchased a house property at No.58, Palanimalai Veedhi, Erode in the name of his mother Rajamani Ammal. After the purchase of the same, the family shifted to that house. The petitioner also purchased another property at Old Door No.5, New No.103, Mettur Road, Erode in the year 1978 in his mother's name and constructed 10 shops in the ground floor in the year 1981 and thereafter a lodging house was constructed in 1984 having 3 floor under the name and style "Eswaran Lodge". While that being so, in the year 1997, a family dispute arose between the petitioner and the 2nd and 3 respondents herein in enjoying the properties in common and sharing the income therefrom. Therefore, the well wishers of the family intervened and a Panchayat was constituted by 5 Panchayatdars, headed by one S.M.Rajendran of Erode. On 19.12.1997, the said Panchayatdars settled the dispute within the family by effecting a partition between the petitioner and the respondents 2 & 3 respectively. As per the partition, the lodging business namely "Eswaran Lodge" was allotted to the petitioner and the respondents 2 & 3 were allotted their respective share in the business. After the said partition, the mother of the petitioner passed away in the year 2007. Immediately after the death of the mother, the respondents 2 & 3 have muted the property tax records and made the Erode Municipal Corporation to issue property tax receipts in their names without issuing any notice to the petitioner. Challenging the same, the present writ petition has been filed.

3.The learned counsel appearing for the petitioner as well as the respondents 2 & 3 would submit that a Civil Suit is pending before the City Civil Court, between the brothers and one of the brothers has also filed a partition suit. Further, they submitted that the future property tax may be issue in favour of brothers namely the petitioner and the respondents 2 & 3.

4.The learned counsel appearing for the 1st respondent would submit in his counter that the name transfer was done as per the request of the respondents 2 & 3 and based on the Will produced by them. If the petitioner produces any court order disputing the will or any other records to show that the petitioner is the absolute owner of the property, the 1st respondent is ready to pass orders on that basis. Accordingly, prays for appropriate orders.

5. In view of the above submissions made by the counsel on either side, this Court is inclined to issue a direction to the 1st respondent i.e. the Commissioner, Erode City Municipal Corporation, Erode, to issue a property tax receipt in the names of the petitioner and the respondents 2 & 3 in future. Once the partition suit is decided, the property tax receipt shall be issued in favour of the succeeding party.

6. With the above direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

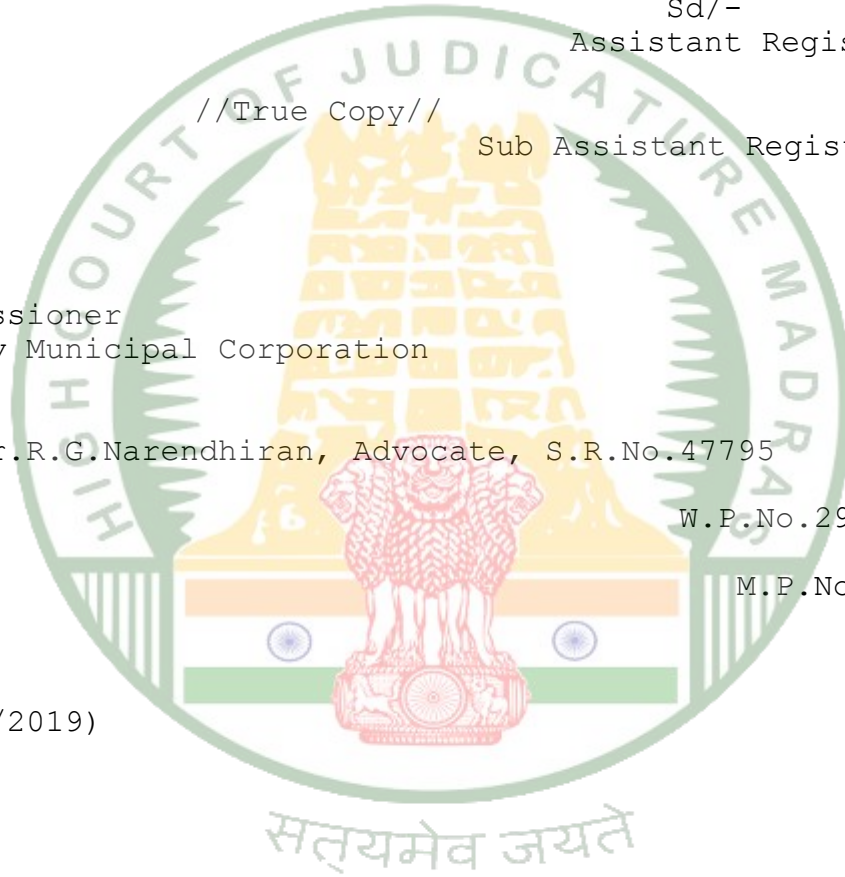
The Commissioner
Erode City Municipal Corporation
Erode.

+1cc to Mr.R.G.Narendhiran, Advocate, S.R.No.47795

W.P.No.29637 of 2008
and
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NRJK (CO)

RRS (10/07/2019)



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