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Writ Petition No.13704 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16/2/2023

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Writ Petition No.13704 of 2018

a n d

W.M.P.No.16163 of 2018

G. Ramalingam

...

Petitioner

Vs

1. The Commissioner
Ooty Municipality
The Nilgiris District.

2. Mathimaran

...

Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the first respondent to delete the name of the second respondent from the Tax Assessment register in respect of Door Nos.12 B and 12 C (New Nos.42 and 42 A) in R.S.Nos.3520 and 3521, Ootacamund Town, Nilgiris District and restore the name of the petitioner.



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For Petitioner ... Mr.R.Subramanian

For respondents ... Mr.P.Srinivas
for R.1

No appearance for R.2

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ORDER

This writ petition has been filed to direct the first respondent to delete the name of the second respondent from the Tax Assessment register in respect of Door Nos.12 B and 12 C (New Nos.42 and 42 A) in R.S.Nos.3520 and 3521, Ootacamund Town, Nilgiris District and restore the name of the petitioner.

2. The case of the petitioner is that he is the absolute owner of land, measuring an extent of 3 cents with building bearing Door Nos.12, 12 A, 12 B and 12 C, situate in R.S.Nos.3520 and 3521 in Ooty Town. In 1993, the petitioner gave permissive possession to the second respondent for residing in his property. The second respondent filed O.S.No.90 of 2000 before the District Munsif Court, Ooty for permanent injunction restraining from interfering with their possession and enjoyment. The trial Court granted a decree and the same was challenged by the petitioner in A.S.No.20 of 2002. The Appellate Court held that the claim of the second respondent under oral



partition has not been established. The lower Appellate Court, reversed the judgment of the trial Court and dismissed the suit. Being aggrieved, second respondent has filed S.A.No.953 of 2010 .

3. The first respondent had illegally transferred the assessment in the name of the second respondent without notice. When the petitioner applied for transfer of assessment, first respondent rejected the petitioner's application stating that A.S.No.20 of 2002 was dismissed on 3/7/2002 and hence, transfer of assessment cannot be effected. Thereafter, the petitioner had issued a legal notice, on 17/5/2016 to the first respondent about the dismissal of the suit filed by the second respondent. Vide, Proceedings, dated 1/8/2016, first respondent informed the petitioner that they have received legal opinion that S.A.No.97 of 2008 has been disposed of. Based on the same, assessment has been transferred in the name of the second respondent. On verification, it was found that S.A.No.97 of 2008 is not at all connected to the present litigation. Even the petitioner has informed the same to the first respondent. Since no steps have been taken, petitioner has come forward with the present writ petition praying for the relief as stated therein.



4. Heard Mr.R.Subramanian, learned counsel for the petitioner and Mr.P.Srinivas, learned counsel for the first respondent. There is no representation on behalf of the second respondent.

5. Learned counsel appearing for the first respondent submitted that in fact, Second Appeal filed by the second respondent in S.A.No.953 of 2010 was dismissed on 13/10/2020 and whereas the impugned order shows the different Second Appeal no., which is not correct. When the ownership is vests with the petitioner, the first respondent before changing any name, ought to have made proper enquiry and should have issued notice to the petitioner which has not been done in this case. Besides, the reasons assigned for rejection of change in the name is also wrong. In fact, Second Appeal filed by the second respondent is in different number whereas the impugned order refers to S.A.No.97/2008 which is totally not connected to the second respondent.

6. In such a view of the matter, this writ petition is allowed and the impugned order is set aside and first respondent is directed to effect name change, after hearing the petitioner and pass orders on its own merits, within a period of two months, from the date of receipt of a copy of this order. No



Writ Petition No.13704 of 2018

costs. Consequently, the connected Miscellaneous Petition is closed.

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16/2/2023

Index : Yes / No

Internet: Yes

Speaking/non speaking order

mvs.

To

1. The Inspector of Panchayat/
District Collector
Vellore District
Vellore.
2. The Special Officer/Block Development Officer
Melandurai Village Panchayat
Melandurai Village, Nemili Taluk
Vellore District.
3. The Junior Engineer
Operation & Maintenance, TNEB
Nagavedu Village
Nemili Taluk
Vellore District.

N. SATHISH KUMAR, J



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