[IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.18748 of 2020
and
W.M.P.Nos.23288 & 23291 of 2020

V.Ganesan .. Petitioner

Vs.

1.The Commissioner,
O/o. Vedaranyam Municipality Office,
Vedaranyam Taluk,
Nagapattinam District.

2.The Executive Officer,
Sri Vedaranyeswarar Swamy Thirukoil,
Vedaranyam,
Vedaranyam Taluk,
Nagapattinam District.

3.V.Subramanian .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 1st respondent in order in Na.Ka.No.712/2020/A1, dated 03.08.2020 on the file of the 1st respondent and quash the same and direct the 1st respondent to entry the name of the petitioner in the house tax.

For Petitioner	:	Mr.R.Muruga Bharathi
For R1	:	Mr.M.Venugopal
For R2	:	Mr.S.Kingston Jerold
For R3	:	Mr.V.Shanmugasundaram

O R D E R

The petitioner is challenging the impugned order passed by the 1st respondent bearing Na.Ka.No.712/2020/A1, dated 03.08.2020 and for a direction to the 1st respondent to make an entry of his name in the house tax.

2.The petitioner and the 3rd respondent are the brothers. The dispute relates to the land which belongs to the 2nd respondent Temple. The 3rd respondent appears to have purchased the super structure over the land property way back in the year 1972, from one Vairamuthu Pillai, vide document No.109/1972. The 3rd respondent claims that he has been paying necessary charges to the 2nd respondent Temple in the form of kist and that the 2nd respondent has also issued necessary kist receipts to the 3rd respondent. The petitioner has challenged the impugned order, whereby the assessment of the property tax / house tax which earlier standing in the name of the 3rd respondent and later to the name of the petitioner. It is submitted that in the impugned order, the name of the petitioner has been deleted.

3.The learned counsel for the 3rd respondent has filed copy of the sale deed dated 20.01.1972, registered as document No.109/1972. It is submitted that the petitioner is the younger brother of the 3rd respondent who was merely allowed to occupy it. It is submitted that the 3rd respondent has not given any permission for transfer of the property tax assessment in favour of the petitioner. It is therefore submitted that there is no error in the impugned order restoring the position *ante* and therefore the Writ Petition is liable to be dismissed.

4.On the other hand, the learned counsel for the 2nd respondent Temple would submit that the petitioner and the 3rd respondent are encroachers and appropriate proceedings are proposed to be initiated against them under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

5.I have considered the arguments advanced by the learned counsel for the petitioner, learned counsel for 1st respondent, learned counsel for 2nd respondent and the learned counsel for 3rd respondent.

6.There is no merits in this Writ Petition. The 3rd respondent appears to have purchased the property which belongs to the 2nd respondent Temple. The private arrangement between the petitioner and the 3rd respondent cannot be used to legitimate the *inter se* rights in derogation of the rights of the 2nd respondent. The rights of the 2nd respondent are not subservient to the rights of the petitioner and the 3rd respondent under Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Therefore, this Writ Petition is liable to be dismissed. The 2nd respondent may initiate appropriate proceedings in accordance with law to evict the petitioner and the 3rd respondent under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

7.The Writ Petition stands dismissed with the above observations. Consequently, the connected Miscellaneous Petitions are closed. No costs.

11.07.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

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Vedaranyam Taluk, Nagapattinam District.

2.The Executive Officer,
Sri Vedaranyeswarar Swamy Thirukoil,
Vedaranyam, Vedaranyam Taluk,
Nagapattinam District.

C.SARAVANAN, J.

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