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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:**09.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.32741 of 2023

B.R.Beedu ... Petitioner

-vs-

1.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore-641 001.

2.The Assistant Commissioner,
Central Zone,
Coimbatore City Municipal Corporation,
Coimbatore-641 018.

3.K.Murali

4.D.Prabu ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 and 2 to consider the representations made by the petitioner on 10.01.2022, 11.04.2023, 02.05.2023, 21.06.2023 and lastly on 07.08.2023 pertaining to the correction in the Assessment No.162/069/906565 being the Flat No.2A, “BEEDUS LEXUS RESIDENCY” in T.S.No.38/7 in Corporation Division

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No.12, in Block No.3 in Ramalinga Nagar II Layout, Coimbatore, by deleting the name of the 3rd respondent, and by substituting the same with the name of the petitioner, in accordance with the law and the procedure within a time frame as may be fixed by this Court.

For Petitioners : Ms.Elizabeth Ravi

For R1 & R2 : Mr.N.Umapathy

For R3 : Mr.M.S.Seshadri

For R4 : Mr.R.Ganesh Kanna

ORDER

The petitioner seeks a mandamus to the 1st and 2nd respondents to consider the petitioner's representations relating to the property tax assessment for Flat No.2A in Beedus Lexus Residency at Ramalinga Nagar II Layout, Coimbatore.

2. The petitioner asserts that the entire extent of land, i.e. 3962 sq.ft., in T.S.No.38/7 in Corporation Division Ward No.12, Block No.3, Ramalinga Nagar II Layout, Coimbatore, originally belonged to the petitioner and his daughter, Sangeetha Beedu. He further states that he entered into a Joint Development Agreement with the 4th respondent for the

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construction of a multi-storeyed residential apartment complex on the above mentioned land. The apartment complex called Beedus Lexus Residency was constructed pursuant to such Joint Development Agreement. As per the Joint Development Agreement, the petitioner asserts that the sharing ratio was 60% to the land owner and 40% to the developer. Consequently, it is further asserted that the owner's share is five flats and three flats is the developer's share. The petitioner states that the 3rd respondent was required to make payments to the petitioner towards construction cost because the flat purchased by the 3rd respondent was part of the owner's share under the Joint Development Agreement. By contending that the 3rd respondent failed to pay a sum of Rs.62,12,500/- out of the total consideration of Rs.1,24,25,000/-, the petitioner issued representations to the 1st and 2nd respondents. Because the said representations did not elicit a response from the respondents, the present writ petition was filed.

3. Learned counsel for the petitioner contends that the property tax assessment in the 3rd respondent's name is liable to be rectified to reflect the petitioner's name in view of the failure of the 3rd respondent to discharge

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amounts payable to the petitioner. At a minimum, learned counsel contends that 1st and 2nd respondents should be directed to consider and dispose of the petitioner's representations. Learned counsel also submits that the flat was not conveyed by the petitioner to the 3rd respondent.

4. These contentions are countered by learned counsel for the 3rd respondent by submitting that a sale deed in respect of the undivided share in the land was executed by the petitioner in favour of the 3rd respondent on 23.01.2020. Learned counsel further submits that a construction agreement was entered into between the 3rd and 4th respondents for the construction of Flat No.2A. He further submits that amounts due and payable to the land owner under such construction agreement were discharged. As the owner of the flat, learned counsel submits that the property tax assessment should be in his name and that the petitioner has no right to seek rectification of such assessment.

5. Learned counsel for the 4th respondent submits that his role was limited to putting up the construction and that he has discharged his obligation.

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6. Based on the submissions made and on perusal of the documents placed on record, it is clear that the dispute relates to whether the construction cost was paid in full by the 3rd respondent to the petitioner. It is needless to say that such dispute would be a civil dispute between the petitioner, on the one hand, and the 3rd and 4th respondents, on the other. As regards the contention of learned counsel for the petitioner that Flat No.2A was not conveyed by the petitioner to the 3rd respondent, the documents on record reveal that the undivided share in the land, corresponding to the flat, was conveyed under sale deed dated 23.01.2020. On the same date, a construction agreement was executed by and between the 3rd and 4th respondents. These two documents are required to be read together and, if so read, convey title in the flat to the 3rd respondent. Since the flat stands in the name of the 3rd respondent pursuant to the sale deed and construction agreement, a mandamus cannot be issued to the 1st and 2nd respondents to rectify the assessment in the name of the 3rd respondent. However, it is open to the petitioner to approach the jurisdictional civil court in respect of any claims against the 3rd or 4th respondents.

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7. W.P.No.32741 of 2023 is disposed of on the above terms without any order as to costs.

09.02.2024

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

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To

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SENTHILKUMAR RAMAMOORTHY,J

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