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**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT**

THE HONOURABLE MR. JUSTICE EASWARAN S.

THURSDAY, THE 3RD DAY OF JULY 2025 / 12TH ASHADHA, 1947

RSA NO. 1148 OF 2014

**AGAINST THE JUDGMENT AND DECREE DATED 03.04.2012 IN
AS NO.122 OF 2011 OF II ADDITIONAL DISTRICT & SESSIONS
COURT, THODUPUZHA ARISING OUT OF THE ORDER/JUDGMENT DATED
30.09.2011 IN OS NO.77 OF 2002 OF MUNSIFF MAGISTRATE COURT,
DEVIKULAM**

APPELLANT/APPELLANT IN AS 122/11 & DEFENDANT IN OS 77/02:

**ANTONY
AGED 58 YEARS
D/O.DEVASAHAYAM, RESIDING AT BUILDING NO.MGP,
K/3220, ANTONIAR COLONY, MUNNAR P.O.,
K.D.H.VILLAGE., IDUKKI DISTRICT.**

BY ADV SHRI.PRAVEEN K. JOY

RESPONDENT/RESPONDENT IN AS 122/11 & PLAINTIFF IN OS 77/02:

**TATA TEA LTD, A PUBLIC LIMITED COMPANY
INCORPORATED IN INDIA WITH ITS REGISTERED OFFICE
AT BISHOP LEFROY ROAD CALCUTTA, HAVING ITS
REGIONAL OFFICE AT MUNNAR, KDH VILLAGE, REP. BY
POWER OF ATTORNEY HOLDER, OF THE COMPANY AT
MUNNAR, KDH VILLAGE, DEVIKULAM TALUK.**

**BY ADVS.
SRI.V.ABRAHAM MARKOS
SHRI.ABRAHAM JOSEPH MARKOS
SRI.ISAAC THOMAS
SRI.P.G.CHANDAPILLAI ABRAHAM**



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**SHRI.ALEXANDER JOSEPH MARKOS
SHRI.SHARAD JOSEPH KODANTHARA
SMT.ZAINAB ZEBAlBRAHIM P.M.
JOHN VITHAYATHIL**

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON
03.07.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



EASWARAN S., J.

R.S.A No.1148 of 2014

Dated this the 3rd day of July, 2025

JUDGMENT

The appeal arises from the concurrent findings of the Munsiff Court, Devikulam, in O.S.No.77/2002, as confirmed by the II Additional District Court, Thodupuzha, in A.S.No.122/2011.

2. The appellant is the defendant in a suit for declaration of title, recovery of possession of the plaint schedule building and for damages and allied reliefs. The plaintiff is a public limited company incorporated in India with its registered office at 1, Bishop Lefroy Road, Calcutta and with its regional office at Munnar, K.D.H. Village. The defendant entered into a license agreement with the plaintiff on 24.01.1986. As per the terms and conditions of the license agreement, the defendant ought to renew the license every year. It is alleged that in May, 2000, there was a default in the license fee and therefore, the plaintiff demanded the arrears through letters and finally through lawyer's notice dated 18.09.2000. Thus when the defendant refused to pay the arrears, the suit was instituted.

3. The defendant entered appearance and contested the suit



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contending that the plaintiff - company is not in existence. The assets of the plaintiff - company were already handed over to the successor company M/s Tata Global Beverage Holdings Pvt. Ltd. and that the plaintiff schedule building was originally leased out to the father of the defendant by the Kannan Devan Hills Produce Company. Therefore, it was contended that the suit was not maintainable. On behalf of the plaintiff, Exts.A1 to A6 were marked and PW1 was examined. On behalf of defendant, Exts.B1 and B2 were marked. Defendant did not adduce any oral evidence.

4. The Trial Court, on appreciation of the oral and documentary evidence, found that admittedly there was a default of the payment of the license fee. There was no further renewal of the license agreement and therefore, it was found that the plaintiff was entitled for a decree as prayed for and accordingly, decreed the suit. On appeal against the judgment and decree in O.S.No.77/2002, the II Additional District Court, Thodupuzha, confirmed the findings by dismissing the appeal. Before the First Appellate Court, it was contended by the defendant that going by Section 4 of the Munnar Special Tribunal Act, 2010, the suit was not maintainable. The aforesaid contention was rejected and the appeal was dismissed. Hence, the present appeal.



5. Heard, Sri.Praveen K.Joy - learned counsel appearing for the appellant and Sri.John Vithayathil - learned counsel appearing for the respondent.

6. The learned counsel for the appellant – Sri.Praveen K.Joy, submitted that during the pendency of the suit, the name of the plaintiff - Company was changed to Tata Global Beverages Ltd. and later, during the pendency of this appeal, the name was again changed. Thus the decree obtained by the original plaintiff is in the name of a non-existent company. In support of his contention, he relied on the decision of a learned Single Bench of the Calcutta High Court in *Malhati Tea Syndicate Limited v. Revenue Officer, Jalpaiguri and Ors.*[AIR 1973 Calcutta 78] and the decision of the Hon'ble Supreme Court in *Pr. Commissioner of Income Tax, New Delhi v. Maruti Suzuki India Limited* [Civil Appeal No.5409/2019]. It is further contended that going by the provisions of the Munnar Special Tribunal Act, 2010, the suit was not maintainable before the civil court.

7. *Per contra*, Sri.John Vithayil - learned counsel for the respondent, pointed out that the name of the company was changed in terms of the provisions contained under Section 23 of the erstwhile Companies Act, 1956 and corresponding to Section 13 of the Companies Act, 2013. It is the case of the respondent/plaintiff that the change of name and its registration shall not affect any legal



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proceedings by or against the company. As regards the contention that the civil court lacks jurisdiction to entertain the suit, it is pointed out that the present dispute will not fall within the scope of the Munnar Special Tribunal Act, 2010. Hence, it is submitted that no substantial question of law arises for consideration in the appeal.

8. I have considered the rival submissions raised across the Bar and have perused the judgments rendered by the courts below.

9. Section 23 of the Companies Act, 1956 read as under:

23. REGISTRATION OF CHANGE OF NAME AND EFFECT THEREOF

(1) Where a company changes its name in pursuance of section 21 or 22, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a fresh certificate of incorporation with the necessary alterations embodied therein ; and the change of name shall be complete and effective only on the issue of such a certificate.

(2) The Registrar shall also make the necessary alteration in the memorandum of association of the company.

(3) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against it ; and any legal proceedings which might have been continued or commenced by or against the company by its former name may be continued by or against the company by its new name.

Corresponding provision under the Companies Act, 2013, is Section 13, which reads as under:

13. Alteration of memorandum.—*(1) Save as provided in section 61, a company may, by a special resolution and after complying with the procedure specified in this section, alter the provisions of its memorandum.*

(2) Any change in the name of a company shall be subject to the provisions of sub-sections (2) and (3) of section 4 and shall not



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have effect except with the approval of the Central Government in writing:

Provided that no such approval shall be necessary where the only change in the name of the company is the deletion therefrom, or addition thereto, of the word "Private", consequent on the conversion of any one class of companies to another class in accordance with the provisions of this Act.

(3) When any change in the name of a company is made under sub-section (2), the Registrar shall enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name and the change in the name shall be complete and effective only on the issue of such a certificate.

(4) The alteration of the memorandum relating to the place of the registered office from one State to another shall not have any effect unless it is approved by the Central Government on an application in such form and manner as may be prescribed.

(5) The Central Government shall dispose of the application under sub-section (4) within a period of sixty days and before passing its order may satisfy itself that the alteration has the consent of the creditors, debenture-holders and other persons concerned with the company or that the sufficient provision has been made by the company either for the due discharge of all its debts and obligations or that adequate security has been provided for such discharge.



(6) Save as provided in section 64, a company shall, in relation to any alteration of its memorandum, file with the Registrar—

(a) the special resolution passed by the company under sub-section (1);

(b) the approval of the Central Government under sub-section (2), if the alteration involves any change in the name of the company.

(7) Where an alteration of the memorandum results in the transfer of the registered office of a company from one State to another, a certified copy of the order of the Central Government approving the alteration shall be filed by the company with the Registrar of each of the States within such time and in such manner as may be prescribed, who shall register the same, and the Registrar of the State where the registered office is being shifted to, shall issue a fresh certificate of incorporation indicating the alteration.

(8) A company, which has raised money from public through prospectus and still has any unutilised amount out of the money so raised, shall not change its objects for which it raised the money through prospectus unless a special resolution is passed by the company and—

(i) the details, as may be prescribed, in respect of such resolution shall also be published in the newspapers (one in English and one in vernacular language) which is in circulation at the place where the registered office of the company is situated and shall also be placed on the website of the company, if any, indicating therein the justification for such change;



(ii) the dissenting shareholders shall be given an opportunity to exit by the promoters and shareholders having control in accordance with regulations to be specified by the Securities and Exchange Board.

(9) The Registrar shall register any alteration of the memorandum with respect to the objects of the company and certify the registration within a period of thirty days from the date of filing of the special resolution in accordance with clause (a) of sub-section (6) of this section.

(10) No alteration made under this section shall have any effect until it has been registered in accordance with the provisions of this section.

(11) Any alteration of the memorandum, in the case of a company limited by guarantee and not having a share capital, purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member, shall be void.

10. A reading of the aforementioned provision shows that when a change in the name of a company takes place and the same gets registered in the register of the companies, there is no substantial change in the constitution of the entity. Sub-section 3 to Section 23 specifically provides that the change of name shall not affect any rights and obligations of the company or render defective any legal proceedings by or against it. The same is the position as regards the Companies Act, 2013. Therefore, this Court finds no merit



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in the contention of the learned counsel for the appellant that the decree obtained is in the name of a non-existent company. The decree passed in favour of the erstwhile company, whose name was the subsequently changed will enure to the benefit of the company inasmuch as there is no change in the constitution and that the name of the entity alone is changed.

11. Insofar as the decision reported in *Malhati Tea Syndicate Limited* (supra) is concerned, this Court finds that the decision rendered by the Calcutta High Court was on an entirely different context altogether. A company's name was struck off from the register of the companies and therefore, the Single Bench of the Calcutta High Court held that the proceedings in the name of a non-existent company cannot be continued. This Court fails to comprehend as to how the principles laid down by the Single Bench of the Calcutta High Court can be made applicable to the facts of the present case.

12. Coming to the decision of the Hon'ble Supreme Court in *Pr. Commissioner of Income Tax, New Delhi* (supra), a reading of the decision shows that a notice under the Income Tax Act for the assessment year 2012-13 was issued against an erstwhile entity which got amalgamated with Maruti Suzuki India Ltd. Therefore, the Supreme Court held that after amalgamation the earlier company cease to exist and notice issued in name of an earlier company cannot



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be sustained. However, the facts presented before this Court would show that there is no change in the constitution of the company. What is changed, is the name of the existing company to M/s Tata Global Beverages Ltd. and subsequently, Tata Consumer Products. Ltd. Inasmuch as there is no change in the constitution of the entity and the entity as such remains, this Court is of the considered view that the appellant has not made out a case for interference. Admittedly, the appellant is continuing in the property without executing any license agreement subsequent to the expiry.

13. Now coming back to the contention regarding the lack of jurisdiction of the civil court on coming into the force of the Munnar Special Tribunal Act, 2010, this Court finds that the constitution of the Special Tribunal was in fact for adjudicating the dispute regarding the ownership, possession, use or any rights whatsoever over the concerning land in Munnar area as well as the constructions. Going by the provisions of Section 2(d) of the Munnar Special Tribunal Act, the dispute raised in the present case will not fall within the term of dispute as contemplated in the said Act.

14. Still further, in judgment dated 03.02.2011 in W.P. (C)No.3487/2011, the State of Kerala had made it clear before this Court that the constitution of the Munnar Special Tribunal is only for



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the purpose of adjudicating the dispute regarding the ownership of the Government property in the Munnar area. That be so, this Court is of the considered view that there is no merit in the contention raised on behalf of the appellant that the civil court lacks jurisdiction.

15. At any rate, it is to be noted that the Government of Kerala subsequently abolished the Munnar Special Tribunal. Therefore, as on today, even if this Court is to assume that the civil court did lack jurisdiction to entertain the suit of the present nature, so long as the Munnar Special Tribunal does not exist, the contention becomes untenable.

Read in the above perspective, this Court cannot find any illegality or infirmity in the judgments rendered by the courts below. Resultantly, finding that no substantial question of law arises for consideration in this appeal, the appeal fails and the same is dismissed.

Sd/-
EASWARAN S.
JUDGE

ACR



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APPENDIX OF RSA 1148/2014

RESPONDENT ANNEXURES

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| Annexure R1(a) | True copy of the online case status of E.P. 2/2013 as available on the Ecourts website |
| Annexure R1(b) | True copy of the daily status of the proceedings on 18.02.2013 in E.P. 2/2013 as available on the Ecourts website |