IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

WA.No. 2639 of 2015 () IN WP(C).28850/2014

AGAINST THE ORDER/JUDGMENT IN WP(C) 28850/2014 of HIGH COURT OF KERALA DATED 01-10-2015

APPELLANT(S)/RESPONDENTS IN THE W.P.(C):
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1. **STATE OF KERALA,**
   REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE,
   SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

2. **THE COMMISSIONER OF LAND REVENUE,**
   COMMISSIONERATE OF LAND REVENUE,
   THIRUVANANTHAPURAM - 695 001.

3. **THE TAHSILDAR,**
   TALUK OFFICE, IRINJALAKKUDA, THRISSUR DISTRICT,
   PIN - 680 121.

4. **THE COMMERCIAL TAX OFFICER,**
   OFFICE OF THE COMMERCIAL TAX OFFICER, IRINJALAKKUDA,
   THRISSUR DISTRICT, PIN -680 121.

BY SRI.GEORGE MECHERIL, GOVERNMENT PLEADER

RESPONDENT/PETITIONER IN THE W.P.(C):

C.V.CHANDRAN,
S/O.GOVINDAN, PERUMBALA HOUSE, CHELOOR P.O.,
THRISSUR DISTRICT, PIN - 680 121.

R BY ADVS.SRI.RENJITH THAMPAN,
SMT.P.R.REENA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 10-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

DG

THOTTATHIL B.RADHAKRISHNAN &
ANU SIVARAMAN, JJ.

W.A.No.2639 of 2015

Dated this the 10th day of December, 2015

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. This writ appeal is filed by the State. We have heard the learned special government pleader for the department of commercial taxes and the learned senior counsel appearing for the respondent/writ petitioner.

2. The writ petition was instituted in relation to revenue recovery proceedings which involved a residential building. The persons who owned the parcel of land and building, which were proceeded against, had created a mortgage. That security was subject of a suit and a decree for recovery of money on the basis of that mortgage was granted in favour of the writ petitioner. In the mean while, as against the owner of

the land and building, that is to say, the person who held the equity of redemption, revenue recovery proceedings followed on three different counts; namely, Sales Tax dues; Excise Duty arrears; and, dues towards Kerala State Electricity Board.

3. The learned single Judge, after adverting to the different aspects of the matter, including the crucial fact that the revenue sale was not notified in conformity with the procedural requirements in terms of the provisions of the Registration Act and the Transfer of Registry Rules, granted relief to the writ petitioner by ordering re-conveyance on condition that the writ petitioner pays the outstanding amounts, that is to say, ₹9,58,047+2,26,555+18,283= ₹12,02,885/-.

4. The learned special government pleader argued that the violations of laws, as noted by the learned single Judge were not of such nature which would invalidate the revenue sale and the statutory prescriptions in that regard should be treated as only directory but not mandatory. He further argued that on the totality of facts and circumstances, there is no ground to

deprive the State of the property which it obtained through the impugned revenue sale.

5. The fact of the matter remains that the arrears due from the defaulter were settled under 'Amnesty Scheme'. The requirement for following due process in terms of the Registration Act and the Transfer of Registry Rules have been dealt with by the learned single Judge in the correct perspective. We do not see that the relevant statutory provisions are merely directory. They are salutary and mandatory. The requirement of such procedure under those statutory provisions is to bring home to a probable purchaser the deficiencies in the title referable to the revenue sale. That not having been there, the learned single Judge was justified in issuing the impugned judgment, though, balancing the equitable considerations, the amount that the writ petitioner ought to have been directed to pay ought to have been higher. We have deliberated on this issue as well, during the course of submissions by the learned counsel appearing for the parties and we are of the view that if an amount of ₹15,00,000/- is paid

including the amount covered by the impugned judgment on or before 15.1.2016, ends of justice will be satisfied.

In the result, this writ appeal is ordered without interfering with the impugned judgment except to the extent of directing that the total amount payable in satisfaction of the amounts that the writ petitioner will have to pay in terms of the impugned judgment shall be ₹15,00,000/- if paid on or before 15.1.2016. The impugned judgment will be adhered to with this modification.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(ANU SIVARAMAN, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG