

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.7962 of 2015 & MP.Nos.1&2/2015

A.Bareneedaran

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Petitioner

Versus

1.The Tahsildar
Taluk Office, Puducherry.

2.The Commercial Tax Officer-II,
Commercial Taxes Department
Puducherry.

3.T.Rajappan

4.M/s.Bharath Petroleum Agency
rep.by its Proprietor Mr.A.Sreekanth
RS.No.32/2, Pondy Cuddalore Main Road
Kirumambakkam, Puducherry.

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Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records of the 1st respondent contained in Gazette Publication dated 13.02.2015 and the consequential auction Notice of Sale dated 03.03.2015 and quash the same as being illegal.

For Petitioner : Mr.R.Thirumavalan

For R1 & R2 : Mr.R.Sreedhar, GA [Puducherry]

ORDER

Heard Mr.R.Thirumavalan, learned counsel for the petitioner; Mr.R.Sreedhar, learned Government Advocate [Puducherry] accepting notice for the respondents 1 and 2 and with their consent, the writ petition is disposed of at the admission stage itself.

2.Since the writ petition is disposed of at the admission stage itself, notice to the respondents 3 and 4 is dispensed with and the merits of the allegations made by the petitioner as against the respondents 3 and 4 are not gone into and it is left to the official respondents to consider the same.

3.The petitioner has filed this writ petition to quash the Notification issued by the 1st respondent bringing for auction the properties situated in Ward-C, Block 10, TS.No.67, RS.No.239pt, Patta No.2425 of 40 Pondicherry Revenue Village, for the purpose of recovery of arrears of Value Added Tax.

4.The petitioner would state that the property which is sought to be brought for auction is an ancestral property belonging to his great grandfather S.Annamalai Mudaliar and it was partitioned among his three sons after his demise in the year 1936. After the demise of the petitioner's grandfather, the petitioner's father and his two brothers became the joint owners of the property and the petitioner would claim that his father inherited 1/3rd share. After the demise of the petitioner's father in the year 2006, it is stated that the petitioner's father left behind a Will dated 14.04.2005 and it is stated that the Will was executed much prior to the petitioner's brother A.Sreekanth, the 3rd respondent herein, commencing the Petrol Bunk business for whose default, the property is brought for auction.

5.The dispute raised by the petitioner herein cannot be adjudicated in a writ petition. However, since the property is brought for auction, whatever objection the land owners or the persons claiming a right over the property could very well raise the same before the authority who has notified the auction. Since the 1st respondent has already issued notice of auction, it is open to the petitioner to raise his objection before the 1st respondent and if the same is raised, it shall be considered by the 1st respondent well prior to the date fixed for auction, after affording an opportunity of personal hearing to the petitioner.

6.The writ petition is disposed of with the above observation. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

AP

To

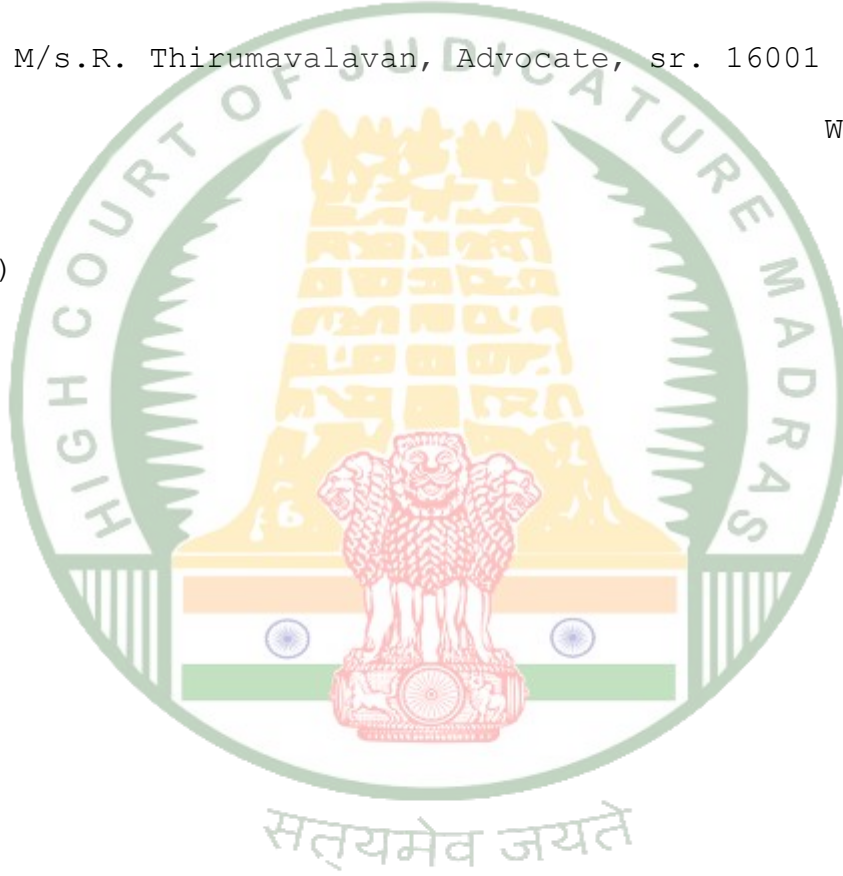
1.The Tahsildar
Taluk Office
Puducherry.

2.The Commercial Tax Officer-II,
Commercial Taxes Department
Puducherry.

1 cc to M/s.R. Thirumavalavan, Advocate, sr. 16001

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