

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.9048 to 9050 of 2015 and
M.P.Nos.1 to 1 and 2 to 2 of 2015

B.Balaloganayaguy ... Petitioner in W.P.No.9048 of 2015
S.Vijayalakshmi ... Petitioner in W.P.No.9049 of 2015
A.Usha ... Petitioner in W.P.No.9050 of 2015
vs.

1. The Tahsildar, Oulgaret
Taluk Office, Puducherry
2. The Commercial Tax Officer - II
Commercial Taxes Department,
Puducherry.
- 3.M/s Bharath Petroleum Agency,
rep. By its Proprietor Mr.A.Sreekanth
R.S.No.32/2, Pondy Cuddalore Main Road,
Kirumambakkam,
Puducherry. ... Respondents in W.P.nos.9048, 9049
and 9050 of 2015

Writ Petitions filed under Article 226 of the Constitution of India praying for a issuance of Writ of Certiorari to call for the records of the 1st respondent contained in Gazette Publication dated 13.02.2015 and the consequential auction proceedings of the 1st respondent published in Thina Malar on 14.03.2015 and quash the same as being illegal.

For Petitioners : Mr.R.Thirumalavalan

For Respondents : Mr.A.Tamilvanan
Government Advocate (Pondicherry)

C O M M O N O R D E R

Heard Mr.R.Thirumalavalan, learned counsel appearing for the petitioners and Mr.A.Tamilvanan, learned Government Advocate (Pondicherry) appearing for respondents and perused the materials

placed on record. With the consent on either side, the Writ Petitions themselves are taken up for final disposal at the admission stage itself.

2. The petitioners have filed these Writ Petitions to quash the Gazette Notification issued by the 1st respondent dated 13.02.2015, by which certain properties is to be brought for sale for recovery of sale tax dues of the 3rd respondent. According to the petitioners, they are bonafide purchasers for valid consideration and the properties cannot be brought for auction without reference to them and without considering their objections.

3. Earlier one A. Bareneedaran, has approached this Court by filing W.P.No.7962 of 2015 stating that a portion of the property, which is brought for auction, which also forms a portion of the impugned gazette notification is ancestral property belonging to his great grand father, namely, S. Annamalai Mudaliar and it is partitioned among his three sons after his demise in year 1936 and his grand father was in possession of the property. Thereafter, his father and his two brothers have become joint owners of the property. Therefore, the Writ petitioner therein, namely, A. Bareneedaran claimed a un-divided share in the property. In the light of the dispute, raised by the writ petitioner therein, the writ petition was disposed of by an order dated 20.03.2015 and operation portion of the order reads as follows:-

".....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."

4. The petitioners herein is said to have purchased a different property from the 3rd respondent and the brothers of the proprietor of the 3rd respondent, namely, M/s Bharath Petroleum Agency by a registered sale deeds dated 31.03.2008, registered as Document Nos.3883; 3884 and 3880 of 2008, ***3881 of 2008** respectively. The petitioners seek to object the property for being brought for action,

since this Court has already granted direction in respect of one A.Bareneedaran, who claimed right over the property and the petitioners' claim is in virtue of the sale deeds executed in favour of them, the similar relief could be granted to the petitioners also.

5.Since the dispute raised by the petitioners cannot be sorted out or adjudicated in these writ petitions, liberty is granted to the petitioners to raise objections before the 1st respondent and produce all the records in support of their claim and if the same is raised, it shall be considered by the 1st respondent well before the date of auction, i.e, 02.04.2015 based on the earlier representation dated 28.02.2015 along with any additional materials that the petitioners may produce.

6.With the above direction, these Writ Petitions are disposed of. Consequently connected miscellaneous petition are closed. No costs.

Sd/-
Assistant Registrar
Dated : 30.03.2015

***Amended as per order of this
court dated 31.03.2015**

**Sd/- Assistant Registrar (CS-IV)
Dated : 01.04.2015**

//True Copy//

Sub Assistant Registrar

ssd
To

1. The Tahsildar
Taluk Office, Puducherry

To be substituted to the
orders already despatched
on 31.03.2015

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

3 cc to Mr.R.Thirumalavalan ,Advocate, SR.No.17783, 17782, 17781
3 cc to Senior Government Pleader Cum Senior Public Prosecutor for
Puducherry ,Sr.No.18179, 18178, 18177

W.P.Nos.9048 to 9050 of 2015 and
M.P.Nos.1 to 1 and 2 to 2 of 2015

pmk.30.3.2015
PSI 01.04.2015