IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2015

CORAM:

THE HONOURABLE Mr.JUSTICE.R.MAHADEVAN

W.P.No.15358 of 2002
and W.P.M.P.No.20595 of 2002

ANANDKUMAR [PETITIONER]

Vs

1 THE STATE OF TAMILNADU REP BY
THE SECRETARY TO GOVT OF T.N.
REVENUE DEPARTMENT
SECRETARIAT
FORT ST.GEORGE CHENNAI.9.

2 THE PRINCIPAL COMMISSIONER AND
COMMISSIONER OF LAND REFORMS
ELELZGAM, CHEPAUK,CHENNAI.5

3 THE ASST COMMISSIONER
URBAN LAND TAX OFFICE,
COIMBATORE.18.

4 THE SPECIAL TAHSILDALR
URBAN LAND TAX
COIMBATORE.18

[RESPONDENTS]

Writ petition has been filed under 226 of the Constitution of India for the issuance of writ of certiorari to call for the records of the 4th respondent relating to IR-175/MDK dated 13.03.2002 for the fasili years commencing from 1391 to 1411 and quash the same.

For Petitioner : Mr.S.Mahimai Raj
For Respondents : Mr.M.S.Ramesh, AGP

ORDER

This writ petition has been filed challenging the proceedings of the 4th respondent relating to IR-175/MDK dated 13.03.2002 for the fasili years commencing from 1391 to 1411.

2. The case of the petitioner is that he inherited certain agricultural lands from his ancestors situate in Coimbatore District including the lands of the total extent of one acre 15 cents in S.No.233, Madukkarai Village, Coimbatore, South Taluk, Coimbatore District. It is the further case of the petitioner that certain proceedings were taken against him in the year 1995 under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, for the purpose of determining as to whether he was in possession of Urban lands in excess of the ceiling limits as prescribed under the Act. By the proceedings of the Assistant Commissioner of Urban Land Ceiling, Coimbatore dated 11.07.1996, the acquisition proceedings were dropped holding that the above lands are agricultural lands. In the meanwhile, separate proceedings were initiated by the respondent authorities under the Tamil Nadu Urban Land Tax Act, 1966, proposing to levy urban land tax on the lands including the lands situated at S.No.233, Madukkarai Village, Coimbatore District. Since the above lands did not fall within the ambit of the provisions contained under the Tamil Nadu Urban Land Tax, 1966, the said facts were placed before the respondent authorities. In view of the above, the Assistant Commissioner vide proceedings dated 25.03.1997, held that all the lands including the lands in question were agricultural lands as evidenced during the site inspection as the same was supported by the adangal extracts and further held that levy of the Urban Land Tax Act was not sustainable and hence cancelled. Thereafter, the petitioner did not receive any notice from the respondent authorities in regard to levy of Urban Land Tax for the above lands.

3. The further case of the petitioner is that he sold the above stated agricultural lands situate at S.No.233 in Madukkarai Village to the extent of 58 cents in favour of one A.M.Ismath under Sale deed dated 05.07.1994, registered as Document No.1199 of 1994 on the file of the Sub Registrar, Madukkarai and the remaining 57 cents of the above Nanja Lands were sold in favour of Mahamooda and Rasheetha Begum under Sale Deed dated 05.07.1994, registered as Document No.1200 of 1994 on the file of the Sub Registrar, Madukkarai. Hence, it is the case of the petitioner that he has completely ceased to have any right of either title or possession or interest in respect of the entire 1 acre 15 cents in S.No.233, Madukkarai Village with effect from 05.07.1994. However, according to the petitioner, all of a sudden, the 3rd respondent served 21 notices dated 13.03.2002 on him on 25.03.2002 demanding payment of Urban Land Tax for the above said lands for the Fasli years commencing from 1391 to 1411. It is submitted that for the 1st Fasli year, the tax was fixed including the penalty at Rs.6913 and for the following Fasli years i.e, from 1392 to 1411, it was fixed at Rs.6,458/- for each Fasli year. Thus, the total sum of Rs.1,36,073/- was demanded as arrears of urban land tax. Aggrieved over the same, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that as against the levy of Urban Land Tax, the competent authority for Urban and Land Ceiling, has passed an order in his proceedings No.Mu.Mu.8088/94(B1) dated 11.07.1996, declaring that the lands in dispute are agricultural lands and hence the acquisition proceedings cannot be continued and the same was dropped. Further, the Assistant Commissioner (Urban Land Tax), Coimbatore, in proceedings bearing Ni.Mu.No.4421/996E3 dated 25.03.1997, observed that the said lands in question are agricultural lands and hence all the proceedings resulted in levy of Urban Land Tax got dropped. Hence, the present impugned order cannot be sustained.

5. When the matter is taken up for hearing, the learned Additional Government Pleader appearing for the respondents has produced the proceedings of the 3rd respondent/Assistant Commissioner, Urban Land Tax, Coimbatore in Ref.No.3845/99A3 dated 25.08.2015, in and by which, the 3rd respondent has specifically stated that since the said lands in question are declared as agricultural lands vide proceedings dated 11.07.1996, the assessment order in respect of S.F.Nos.327/2, 327/5, 328/2 and 329/2 of Coimbatore (Rural) Village and S.F.Nos.156/2, 157, 158/B1 etc. of Madukkari Village were also cancelled vide proceedings dated 25.03.1997.

6. Since the lands belonging to the petitioner were all along treated as agricultural lands and the proceedings by which urban land tax levied has also got dropped by the authorities, the order impugned in this writ petition is not sustainable. Hence, the impugned order dated 13.03.2002 passed by the 4th respondent is quashed. The writ petition is allowed. It is open to the petitioner to file necessary application before the authority concerned for refund of the amount already deposited. No costs. Connected miscellaneous petition is closed.

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ASSISTANT REGISTRAR(CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

rg

To

1 THE SECRETARY TO GOVT OF T.N.
REVENUE DEPARTMENT
SECRETARIAT

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+1cc to Mr.S.Mahimai Raj, Advocate sr.58737[30/11/2015]

W.P.No.15358 of 2002

CO-PUR
JD 06/11/2015