IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

10 WRIT PETITION NO. 6414 OF 2013

VIJAY MADHUKAR VISPUTE
VERSUS
SALES TAX OFFICER, DHULE AND OTHERS
...
Advocate for Petitioner : Mr. Brahme Shailesh P.
AGP for Respondents State: Mrs. S. S. Raut

CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.

DATE : 18th August, 2016

ORDER:

1. The present petition is filed seeking direction against the respondents to issue Sale Confirmation Certificate in favour of the petitioner in respect of CTS No. 26/1 situated at Bazar Peth, Shirpur, District Dhule. Learned counsel for the petitioner states that respondent No.3 had issued notice of auction of a property bearing CTS No. 26/A situated at Shirpur. Grandfather of the petitioner purchased the said property in an auction for Rs.9,000/. An amount of Rs.2262.75 is paid on 7.11.1977 and the remaining amount of Rs.6788.25 is paid on 6.01.1978. However, sale certificate was not issued at the relevant time. The petitioner was every time requesting for issuance of sale certificate. Even the application was made under Right to Information Act, however, the reply is

received, stating that documents are not traceable.

2. The affidavit in reply filed by the Joint Commissioner of Sales Tax, Dhule Division states that after payment of arrears of the sale tax dues, the office had already withdrawn its claim which was lodged earlier vide letter dated 06.06.2000. The affidavit further states that issuing sale certificate is an obligation of the Revenue Department. The Tahsildar, Shirur has also filed affidavit. The Tahsildar, in the affidavit, states that as per the papers provided by the applicant, the process of auction of the said property has been conducted by the Tahsildar, Vikrikar Vasuli, Dhule. The same was not under the control of Tahsildar, Shirpur and the Tahsildar Shirpur has not performed the auction process and no record is maintained with the Tahsildar, Shirpur. The Tahsildar, Shirpur is not responsible to issue sale certificate.

3. It would be clear that neither the Sale Tax Department nor the Revenue Department is claiming responsibility in respect of auction being conducted as averred by the petitioner or with regard to any further proceeding.

4. In case the petitioner has purchased the

property in auction, the petitioner certainly would be entitled for the sale certificate. The same would be, upon satisfaction of the authorities concerned. Considering the affidavit filed by the Sale Tax Department as well as Revenue department, an anomalous situation has been created, wherein, each department is not taking up responsibility of having conducted the auction ever. It is also not clear as to what claim was withdrawn by the Sales Tax department in the year 2000 on payment of arrears of sales tax, who had deposited the arrears of sales tax, whether the same was by virtue of the amount received in auction, is also not made clear in the affidavit. The affidavits certainly do not lead us anywhere.

5. Considering the fact that officer of the rank of Tahsildar so also Sales Tax department are not coming out with clear case, it would be appropriate for the Collector, Dhule to look into the matter. Hence we pass following order:

O R D E R

i. The petitioner shall approach the Collector, Dhule with all the documents at his disposal. The collector, Dhule shall, after calling for the information from the office of the Tahsildar Shirpur so also from the office of the Sales Tax Department, Dhule, take decision about the auction as claimed by the petitioner being conducted and if yes, take further steps as are required to be undertaken.

ii. If it is confirmed that the auction had taken place, then the Collector, Dhule shall issue further direction with regard to issuance of the sale certificate or otherwise.

6. Writ petition is accordingly disposed of. No costs.

(K. L. WADANE, J.) **(S. V. GANGAPURWALA, J.)**

JPC