IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 8.6.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.11315 of 2003

The Madapalli Farmers Service Coop Society Ltd.,
C-2089, Madapalli Post 635658
rep.by its Special Officer ... Petitioner

versus

The Deputy Commercial Tax Officer,
Commercial Taxes Department,
Dharapuram, 638 656 ...Respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the general auction notice dated 7.2.2003 issued by the respondent, quash the same and consequently direct the respondent not to interfere with the petitioner's peaceful possession of the property situate at Old S.F.No.2526 R.S.No.56, Kolathupalayam Village, Dharapuram Taluk.

For Petitioner : Mr.P.S.Sivashanmugasundaram
For Respondent : Mr.Manokaransundaram,
Additional Government Pleader

O R D E R

The petitioner is a Cooperative Society and they have challenged the auction notice issued by the respondent, proposing to bring the immovable properties for auction, for the purpose of recovery of the sales tax arrears payable by M/s.Appu Ginning Factory, which was a partnership firm.

2. The partners of M/s.Appu Ginning Factory had availed loan from the petitioner society apart availing the benefit of IFST Deferral. The partners defaulted in payment of the loan amount to the petitioner society and it appears that due to various pressures, the partners of M/s.Appu Ginning Factory, belonging to the same family, committed suicide, as a result of which, the respondent Department took steps to recover the sales tax

payable by M/s.Appu Ginning Factory. Simultaneously, the petitioner society proceeded for recovery of the loan advanced by them and since the partners were no more, the immovable property owned by the factory was brought for sale and it appears that there were no bidders and the petitioner society itself purchased the property. Thus the petitioner society became the owner of the immovable property. Therefore, the respondent Department sought to proceed against the petitioner for recovery of sales tax payable by M/s.Appu Ginning Factory, on the ground that the sales tax Department has first charge over the property. Though the facts are thus, the challenge in this Writ Petition by the society is only to the question of auction notification and nothing more.

3. At the time the Writ Petition was entertained, an interim order was granted, which was made absolute on 27.10.2003. Thus, by virtue of the stay granted, the impugned auction notification had become inoperative and at this juncture, the question of reviving the same does not arise. Further more, it is pointed out by the society that the matter is pending before the District Munsif Court, Dharapuram, and they claim that the respondent Department without giving any opportunity to the petitioner society has proceeded to bring the property for auction. In any event, the impugned notice having worked itself out, nothing more is there to be done in the Writ Petition, except closing the matter and leaving it open to the parties to workout the remedy in the manner known to law.

4. In the result, the Writ Petition is closed. No costs.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

tar
To
1.The Deputy Commercial Tax Officer,
Commercial Taxes Department,
Dharapuram, 638 656

W.P.No.11315 of 2003

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