IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.02.2017

Coram

The Hon'ble Mr.Justice NOOTY. RAMAMOHANA RAO
and
The Hon'ble Mr.Justice S.M.SUBRAMANIAM

W.A. Nos.55 and 56 of 2017

N.Udayasingh ..Appellant in both W.As.

Versus

1. The Revenue Divisional Officer,
Ambattur Division,
Ambattur, Chennai - 600 053.

2. The Tahsildar,
Ambattur Taluk,
Ambattur, Chennai-600 053. .. Respondents 1 & 2 in W.A.55/2017

The Assistant Commissioner
Commercial Tax Department,
Korattur Circle,
Yadhaval Street,
Padi, Chennai-600 050. .. Ist Respondent in W.A.56/2017

3. N.Ponsingh .. 3rd Respondent in W.A.55/2017 & and 2nd Respondent in W.A.56/2017

4. The Branch Manager,
HDFC Bank Limited,
No.56, G.N.Chetty Road,
T.Nagar, Chennai 600 017. .. 4th Respondent in W.A.55/2017

Appeal filed under Clause 15 of the Letters Patent, against the common order dated 26.07.2016, passed in W.P.Nos.32082 of 2015 and 15319 of 2016, by the learned single Judge. Writ petition filed U/s. 226 of the constitution of India to issue Writ of Mandamus, directing the 1st respondent to dispose of the petitioner representation dated 28.12.2014 in accordance with law within a time frame.

For Appellant .. Dr.P.Vasudevan.
For Respondent .. Mr.P.S.Sivashanmugasundaram, Spl.G.P.

COMMON JUDGMENT
(Delivered by NOOTY.RAMAMOHANA RAO, J)

These appeals are directed against the common order rendered by the learned single Judge dismissing the writ petitions instituted by the appellant.

2. The appellant herein sought for a direction to consider the representation as well as the complaint said to have been made by him to the Revenue Divisional Officer and the Assistant Commissioner, Commercial Tax Department, complaining bitterly that his younger brother and the said brother's wife have played fraud on him and created bogus documents and have also indulged in forgery. Since such controversial questions of fact can only be resolved after collecting evidence both oral and documentary, but not otherwise, the learned single Judge thought, in our opinion, very rightly, that institution of the proceedings under Article 226 of the Constitution are not ideally suited, as seldom oral evidence is collected in such a proceeding though such a measure is not forbidden but is resorted to in the rarest of rare cases; may be in cases involving Habeas Corpus. Therefore, the controversial questions of fact which form better part of the grievance nurtured by the writ petitioner/appellant can be got resolved only by taking recourse to the most appropriate proceedings. Inasmuch as the jurisdiction of the civil court is never barred in that regard, it is for the writ petitioner/appellant to explore such an avenue rather than pursuing proceedings under Article 226 of the Constitution.

3. We do not find merit in these Appeals. Accordingly, both the Writ Appeals stand dismissed at the admission stage itself.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gr.

TO

1. The Revenue Divisional Officer,
   Ambattur Division,
   Ambattur, Chennai - 600 053.

2. The Tahsildar, Ambattur Taluk,
   Ambattur, Chennai-600 053.

3. The Assistant Commissioner,
   Commercial Tax Department,
   Korattur Circle, Yadhaval Street,
   Padi, Chennai-600 050.

+ 1 cc to M/s. Dr.P. Vasudevan, Advocate sR.7255
+ 1 cc to Government Pleader Sr.7318

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RP(CO)

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