IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2017

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THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.18100 of 2017

A.Thiruvengadam .. Petitioner

..Vs..

1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Commercial Taxes Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Assistant Commissioner
(Commercial Taxes),
Central-I Assessment Circle,
Tiruppur.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd respondent to consider and pass appropriate orders on the petitioner's representation dated 10.09.2016.

For Petitioner : M/s.P.Bhuvaneswari

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

The petitioner, one A.Thiruvengadam, has approached this Court praying for issuance of writ of Mandamus to direct the second respondent to consider his representation dated 10.09.2016.

2.The petitioner has purchased the property comprised in R.S.No.1021/2 at Alamapalayam Village, Tharapuram Taluk, Tirupur District from one K.V.Duraisamy vide sale deed dated 26.04.2012 registered as Doc.No.4120/2012 on the file of the Sub Registrar, Tharapuram. The petitioner's vendor is stated to have purchased the property from one Tmt.Gomathi vide sale deed dated 15.10.2009 registered as Doc.No.7586/2009 on the file of the Sub

Registrar, Tharapuram and who had in turn purchased the property from one Kumarasamy vide sale deed dated 24.11.2008 registered as Doc.No.3524/2008 on the file of the Sub Registrar, Tharapuram. The petitioner was shocked to find that the second respondent has created an attachment on the property on 30.03.2012 for the alleged sales tax dues of one Subramanian, who is said to be the husband of Tmt.Gomathi, the petitioner's vendor's vendor. The petitioner is stated to have filed an application under the Right to Information Act on 24.02.2013 requesting for certain information which the second respondent has refused to divulge. The petitioner being unaware about as to when the sales tax arrears were due and payable, when proceedings were initiated for attachment, etc., submitted a representation on 10.09.2016 followed by a reminder through their counsel on 29.03.2017 and not being favoured with any reply, has approached this Court.

3.I have heard M/s.P.Bhuvaneswari, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondents.

4.It is seen that the petitioner prior to purchasing the property had applied for Encumbrance Certificate and obtained the same on 15.02.2012 and on perusal of the said certificate, it is seen that there is no attachment of the property by Commercial Tax Department. However, when the petitioner registered his sale deed on 26.04.2012, it appears that an attachment has been made on 20.03.2012 vide Doc.No.13/2012. The petitioner is at last to understand as to how the Sub Registrar accepted his document for registration and on what date the second respondent directed the attachment to be effected, that too, in respect of the property which has changed three hands. Thus, the petitioner would state that he is the bona fide purchaser and the attachment should be lifted. Since the representation is pending before the second respondent, it is but appropriate for the second respondent to send a reply giving full details to the petitioner. Having not done so, this Court is constrained to issue necessary directions.

5.In the light of the above facts, there will be a direction to the second respondent to consider the petitioner's representation dated 10.09.2016 followed by a reminder through their counsel dated 29.03.2017 and pass a speaking order and communicate the same to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

6.With the above directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

cse

To

1.The Secretary to Government,
Commercial Taxes Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Assistant Commissioner
(Commercial Taxes),
Central-I Assessment Circle,
Tiruppur.

+1 cc to Mr.P.Bhuvaneswari Advocate sr 49776

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