

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2417

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.32412 of 2007

and

M.P.No.2 of 2007

V.Mohan

... Petitioner

Vs.

1.The Commercial Tax Officer,
Bangalore Road,
Krishnagiri, Krishnagiri District.

2.The District Collector,
Krishnagiri District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records in connection with Na.Ka.750/2001/A3 dated 08.06.2007 of the 1st respondent herein and quash the same.

For Petitioner : Mr.K.Thiruvengadam

For 1st Respondent : Mr.K.Venkatesh
Government Advocate

For 2nd Respondent : Mr.R.Rajeswaran
Special Government Pleader

सत्यमेव जयते
ORDER

The petitioner has filed this writ petition challenging a notice issued by the respondents proposing to bring an immovable property for auction for recovery of the tax of the sales tax dues payable by Thiru.K.Venugopal, S/o.Kuppusamy, Proprietor of Sri Vinayaga Granites, Mallappadi Village, Bargur Taluk, Krishnagiri District.

2.The petitioner's case is that the property is his individual property which was bequeathed him by his grandmother Tmt.Subbammal, by Will dated 16.10.1991. Therefore, the petitioner submitted that the respondents cannot proceed against the petitioner's property.

3.From the written instructions given by the 1st respondent to the learned Special Government Pleader vide letter dated 24.10.2007, it is seen that the petitioner and his sons viz., Naganathan and Lokesh (minor) have filed a suit in O.S.No.141 of 2006 on the file of the Sub Court, Krishnagiri for declaration that the property belongs to the plaintiffs and for a permanent injunction in the said suit. The respondents 1 and 2 herein are the defendants 1 and 2 and his father Venugopal is the 4th defendant. The 1st respondent would state that because of the pendency of the suit, the auction has not taken place.

4.Therefore, at this juncture, the impugned auction notice cannot be enforced and accordingly, the same is set aside on technical ground with a direction to the Sub Court, Krishnagiri to expedite the disposal of O.S.No.141 of 2006, if not already disposed of.

5.With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1.The Commercial Tax Officer,
Bangalore Road,
Krishnagiri, Krishnagiri District.

2.The District Collector,
Krishnagiri District.

3.The Sub Court,
Krishnagiri.

+1 CC to Mr.K.Thiruvengadam Advocate SR.NO.75234/17

+1 CC to Government Pleader (Taxes) SR.No.75209/17

W.P.No.32412 of 2007

VGI (CO)

VC (16/11/2017)