IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.5991 of 2004

K.Murugavel .. Petitioner

..Vs..

The Deputy Commercial Tax Officer,
Gudiyatham (East) Assessment Circle. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the respondent in NK.A3/208/2001 dated 01.03.2004, quash the same and the auction sale conducted on 11.02.2004 so far as the petitioner is concerned.

For Petitioner : Mr.M.Hariharan

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.M.Hariharan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent.

2.The petitioner has filed this writ petition challenging the impugned proceedings dated 01.03.2004 bringing the petitioner's property for auction for recovery of the arrears of sales tax.

3.When the writ petition was admitted, an order of interim stay was granted subject to the condition that the petitioner pays a sum of Rs.50,000/-. This direction was complied with by the petitioner and the interim order was made absolute on 31.12.2004. It appears that pursuant to the impugned notification, the property was brought for sale and one Mr.H.Mohammed Murthuja had remitted Earnest Money Deposit as he was the highest bidder. However, the sale was not confirmed in the light of the admission of this writ petition and the interim order which was granted. The remaining amount to be paid towards the sales tax arrears as according to the petitioner is Rs.3,50,000/-.

4.The learned counsel appearing for the petitioner submits that he does not have instruction as to whether the remaining amount was paid, but if they have not paid, the learned counsel submit that reasonable time may be granted to the petitioner to remit the same.

5.In the light of the above, the writ petition is allowed and the impugned auction notification is quashed subject to the condition that the petitioner clears the entire arrears of tax within a period of twelve weeks from the date of receipt of a copy of this order, if not already cleared. Since the auction was not confirmed in favour of Mr.H.Mohammed Murthuja, no right accrues in his favour. However, the Earnest Money Deposit which is retained by the Department which shall be refunded to the said Mr.H.Mohammed Murthuja within a period of three weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Deputy Commercial Tax Officer,
Gudiyatham (East) Assessment Circle.

+1cc to S.Ravee Kumar, Advocate in sr.no.46703
+1cc to Special Government Pleader in sr.no.46813

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NR 19/07/2017