

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P. No.12624 of 2004

G.RAMANATHAN

... PETITIONER

Vs

1. THE INCOME-TAX OFFICER,
WARD-I (2)
OFFICE OF INCOME TAX,
96, M.M.AVENUE,
KANCHEEPURAM.

2. THE MANAGER,
STATE BANK OF INDIA,
TIRUVALLUR-1.

... RESPONDENTS

Prayer: Petition under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings under Notice PAN/GIR No.12632 V/2003-2004 dated 24.12.2003 issued by the 1st respondent and to quash the same and direct the 1st respondent to withdraw the order freezing the petitioner's Bank Account No.01090/017328 with the 2nd respondent bank and to return the amount of Rs.3,39,258/- with interest at 12% per annum.

(Prayer amended as per order dated 03.09.2007 by KCJ in WPMP No.17693 of 2006 in W.P.No.12624 of 2004)

For Petitioner : Mr. P.Sukumar

For Respondents : Mr.A.P.Srinivas for R1
Mr.R.T.Doraisamy for R2

O R D E R

Heard Mr. P.Sukumar, learned counsel appearing for the petitioner, Mr.A.P.Srinivas, learned counsel appearing for the first respondent and Mr.R.T.Doraisamy learned counsel appearing for the second respondent.

2. The petitioner is no more. He is an Advocate practising in Tiruvallur Court and was appearing in a case entrusted by one K.Veerasingam for claiming higher compensation for the land which was acquired from him for implementation of the Krishna Water Project. The petitioner was able to secure an order from the Revenue Court which awarded an additional compensation of Rs.9,47,559/-. Since by then the land owner K.Veerasingam passed away, the petitioner was directed by the Court to disburse the amount to the legal heirs of the deceased land owner.

3. It appears that pursuant to the orders passed by the Court, the enhanced compensation amount was issued by a cheque in favour of the petitioner/Advocate. The cheque was deposited by the petitioner in his bank account in State Bank of India, Tiruvallur. At this stage, impugned notice has been issued by the Income Tax department stating that Mr. K.Veerasingam is in arrears of income tax to the extent of 3,39,258/-. As he has been awarded enhanced compensation, the arrears of tax has to be cleared. In this regard, notice under section 226(3) of the Income Tax Act dated 24.12.2003 has been issued by the respondent.

4. At this juncture, the question of adjudicating the correctness of the impugned notice does not arise as the petitioner is no more and the amount which was entrusted to him, according to the petitioner, has been disbursed to the legal heirs. However, this being the question of fact, has to be established before the appropriate authority.

5. Unfortunately, the petitioner is no more and therefore, there cannot be summons by the respondent for enquiry to establish that he had paid the enhanced compensation amount to Mr.K.V.Lakshminarayanan on 20.12.2003 and to the other legal heirs on different dates and according to the deceased writ petitioner, he has got receipt to establish the same.

6. Thus, considering the peculiar facts and circumstances of the case, the writ petition is disposed of, directing the respondent to issue notice to the legal heirs of the writ petitioner as well as the legal heirs of the deceased land owner, call them for enquiry, in which the respondent shall verify the original receipt obtained by the petitioner and if satisfied, exonerate the petitioner/legal heirs from any claim and if there is arrears of tax payable by the original land owner, liberty is granted to the Income Tax department to proceed against the legal heirs of the original land owner.

7. It is submitted by the learned standing counsel for the respondents that still the amount of Rs.3,39,258/- is lying in the bank account of the petitioner in State Bank of India,

Tiruvallur. If that is so, the same shall continue to lie in deposit and abide by the fresh orders to be passed by the respondent.

8. Accordingly, the writ petition is disposed of. No Costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sli

To

1. THE INCOME-TAX OFFICER,
WARD-I (2)
OFFICE OF INCOME TAX,
96, M.M.AVENUE,
KANCHEEPURAM.

2. THE MANAGER,
STATE BANK OF INDIA,
TIRUVALLUR-1.

+1cc to Mr.P.Sukumar, Advocate, S.R.No.67857

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.68453

+1cc to Mr.R.T.Doraisamy, Advocate, S.R.No.68702

W.P.No.12624 of 2004

MR(CO)
CA(13/10/2017)

सत्यमेव जयते
WEB COPY