IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.43784 of 2016
and
W.M.P.Nos.37599 & 37600 of 2016

M.Natesa Chettiyar ... Petitioner

Vs.

1.The Joint Commissioner,
Commercial Taxes Department,
No.4,Fort Round Road,
Vellore - 632 001,
Vellore District.

2.The Deputy Commissioner,
Commercial Tax,
No.4,Fort Round Road,
Vellore - 632 001,
Vellore District.

3.The Commercial Tax Officer,
Arakonam,
Vellore District.

4.The Sub-Registrar,
Sub-Register Office,
Walajah,
Vellore District.

5.K.Vikram ... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records in order in Rc.A3/1471/2015 dated 31.03.2015 on the file of the 3rd respondent and quash the same.

For Petitioner : Mr.R.Rajarajan

For Respondents : Mr.K.Venkatesh, Government Advocate For R1 to R3

O R D E R

The petitioner is now 93 years old. He filed the present writ petition challenging the order of the third respondent dated 31.03.2015, wherein and whereby, the property belonging to the petitioner was attached thereby creating encumbrance at the office of the fourth respondent.

2. Heard both sides.

3. In the impugned order, the petitioner was referred to as the grand father of one K.Vikram, also wrongly calling the petitioner as late Thiru.M.Natesa Chettiyar. According to the petitioner who is very much alive even as on today, the subject property is his self acquired property over which the said K.Vikram, his grand son, is not having any right or title and consequently the third respondent is not entitled to attach and create encumbrance on the said property belonging to the petitioner, that too without any notice.

4. It is further seen, that immediately after receipt of the impugned communication, the petitioner through his counsel, sent his objection on 14.12.2015 and the third respondent, through a communication dated 18.12.2015, informed that the grievance made by the petitioner would be looked into. The learned counsel appearing for the petitioner submitted that till this date, the third respondent has not passed any order.

5. Perusal of the impugned order would show that the third respondent has created encumbrance by unilaterally coming to the conclusion that the defaulter namely the said K.Vikram, is the only legal heir of the petitioner and that the petitioner was also no more. It appears that the third respondent has passed such order without verification of the facts and without affording an opportunity of hearing to the petitioner.

6. Therefore, I am of the view that the impugned order cannot be sustained and consequently, the third respondent has to look into the matter and pass appropriate orders against the proper person. In any event, as the objection made by the petitioner is pending before the third respondent, this writ petition is allowed and the impugned order is set aside. Consequently, the third respondent is directed to consider the

objection raised by the petitioner and pass fresh orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. Till an order is passed by the third respondent, the petitioner shall not alienate or encumbrance the subject matter property. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mk/mfa

To

1. The Joint Commissioner,
   Commercial Taxes Department,
   No.4,Fort Round Road,
   Vellore - 632 001,
   Vellore District.

2. The Deputy Commissioner,
   Commercial Tax,
   No.4,Fort Round Road,
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3. The Commercial Tax Officer,
   Arakonam,
   Vellore District.

4. The Sub-Registrar,
   Sub-Register Office,
   Walajah,
   Vellore District.

+1cc to Mr.G.Rajan, Advocate, S.R.No.43174
+1cc to the Special Government Pleader(T), S.R.No.43556

W.P.No.43784 of 2016

VSN(CO)
CA(27/06/2017)