IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2017

CORAM :

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P. NO.26147 OF 2004
AND
W.P.M.P.NO.31778 OF 2004

Om Prakash Lal .. Petitioner

Vs.

1. The Tahsildar,
   Vellore (South)
   Office of Tahsildar,
   Vellore, Vellore District.

2. The Assistant Commissioner,
   Urban Land Tax,
   Vellore, Vellore District. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records of the first respondent herein in his order in Form No.I dated 14.8.2004 and quash the same.

For Petitioner : Mr.S.Marimuthu
for M.A.Abdulwahab

For Respondents : No appearance

ORDER

Mr.S.Marimuthu, learned counsel representing Mr.M.A.Abdulwahab, learned counsel, is present on behalf of the writ petitioner. There is no representation for the respondents. Both the respondents are official respondents.

2. The writ petition is one assailing a communication dated 14.8.2004 from the first respondent (hereinafter referred to as the 'impugned communication' in this order for the sake of

brevity and clarity).

3. Vide impugned communication, the first respondent has issued a distraint order for non payment of revenue dues with regard to land admeasuring 1.80 acres in Velappadi village, Pallikonda Taluk, North Arcot District. This 1.80 acres of land is hereinafter referred to as the 'said land' for the sake of brevity.

4. It is the case of the writ petitioner that the said land was originally given as Inam grant to his great grand father on 26.7.1861. It is also the further case of the writ petitioner that a part of (few grounds) the said land was given for the purpose of construction of a temple, i.e., Varadaraja Perumal Koil.

5. It is also the admitted case of the writ petitioner that the said land comes within the sweep of the Tamil Nadu Act 30 of 1963 [The Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act 1963] (hereinafter referred to as the 'said Act'). The writ petitioner applied for patta under Section 8 of the said Act for the said land before the Settlement Tahsildar. There were some objectors. The matter reached this Court by way of S.T.A.No.255 of 1974. This Court remanded the matter back to the original authority, i.e., Settlement Tahsildar.

6. In the above stated circumstances, it is the case of the writ petitioner that it is a tax free inam and therefore, no tax whatsoever is payable. The writ petitioner would contend that the nature of grant has not changed over the years. The writ petitioner submits that the second respondent issued a notice dated 23.9.1993 under Section 11(1) read with Sections 7-A and 40-A of the Tamil Nadu Urban Land Tax Act, 1966, calling for objections for the proposed levy of urban land tax to an extent of 18 grounds and 186 square feet in S.No.2706 situated in Ward No.4, Block 44, Vellore Town (this according to the writ petitioner is the said land).

7. It is the further say of the writ petitioner that his father sent a detailed objection praying for exemption under Section 29(k) of the Tamil Nadu Urban Land Tax Act, 1966 on the ground that the said land is a tax free grant.

8. Further more, it is the case of the writ petitioner that the land is exempt from urban land tax under Section 29(d)(i)(b) and 29(k) of the Tamil Nadu Urban Land Tax Act. On this ground, the writ petitioner would contend that his father filed a writ petition being W.P.No.5959 of 1994 qua exemption from the urban land tax, but this Court dismissed the same. It is the further case of the writ petitioner that they have preferred a

writ appeal against the same.

9. The said submission is found in paragraph 7 of the writ affidavit, which may be usefully extracted. Paragraph 7 of the writ affidavit reads as follows :

> "7.Therefore since the entire land is exempted from Urban Land Tax under section 29(d)(i)(b) and 29(k) of the Act as a charitable organisation and the land has been given as a grant free from tax, the Assessment made by the 2nd Respondent is illegal, void and without jurisdiction. Hence my father filed a Writ Petition W.P.No.5959/1994. This Honourable Court dismissed the matter on the question of alternative remedy. My father has filed a Writ Appeal before this Honourable Court and the same is pending."

10. I put it to the learned counsel for the writ petitioner about the number of the writ appeal and as to whether the same is pending. Learned counsel is unable to give details. The learned counsel was only able to show page No.47 of the typed set of papers, which contains memorandum of grounds of appeal in the writ appeal, but that again does not contain the writ appeal number.

11. Be that as it may, from all that have been stated supra, it appears that the outcome of the writ appeal said to have been filed by the writ petitioner's father against the dismissal of the writ petition in W.P.No.5959 of 1994 may have an impact on the impugned notice, its validity and enforcement.

12. As the learned counsel for the writ petitioner is unable to give details of the writ appeal, I have to necessarily go by the obtaining position that the writ petition being W.P.No.5959 of 1994 has been dismissed. If there is a writ appeal, it is always open to the writ petitioner to bring to the notice of the Hon'ble Division Bench this order and seek suitable orders if that becomes necessary.

13. With the above observation, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Tahsildar,
   Vellore (South)
   Office of Tahsildar,
   Vellore, Vellore District.

2. The Assistant Commissioner,
   Urban Land Tax,
   Vellore, Vellore District.

+1cc to Mr.K.V.Subramanian, Advocate, S.R.No.52941

W.P.No.26147 of 2004

AR(CS V)
CS/18/08/17