

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.01.2017

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P. No.17290 of 2003

P.R.Balakrishnan

.. Petitioner

Vs.

1.Tax Recovery Officer,
Central II, 108, M.G.Road,
Chennai - 600 034.

2.Sevagan
No.1026-H, No.16,
Central Cross Road,
M.K.B.Nagar, Vyasarpadi,
Chennai - 600 039.

3.Padmanabhan
(Prop.) Sri Sakthi Bats,
No.1026-H, No.16,
Central Cross Road,
M.K.B.Nagar, Vyasarpadi,
Chennai - 600 039.

4.Shri Kumar
(Prop.) Bharathi Times,
No.1026-H, No.16,
Central Cross Road,
M.K.B.Nagar, Vyasarpadi,
Chennai - 600 039.

5.Babu
No.1026-H, No.16,
Central Cross Road,
M.K.B.Nagar, Vyasarpadi,
Chennai - 600 039.

6.Shri Jawarullah Khan
Prop. Baba Fast Food,
No.1026-H, No.16,
Central Cross Road,
M.K.B.Nagar, Vyasarpadi,
Chennai - 600 039.

.. Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus forbearing the first respondent from taking any steps to demand, collect or recover from petitioner the taxes which are stated to have been assessed and or demanded from petitioner's father and referred to in the attachment notices under Section 226(3) of the Income Tax Act in P.A.N./G.I.R. TR.35 dated 10th June 2003 and P.A.N./G.I.R. TR.No.35/CR.II/03-04 dated 11th June 2003 issued to 2nd to 6th respondents.

For Petitioner : Mr.N.Devanathan

O R D E R

This petition has been filed seeking a writ of Mandamus, forbearing the first respondent from taking any steps to demand, collect or recover from petitioner the taxes, which are stated to have been assessed and or demanded from petitioner's father and referred to in the attachment notices under Section 226(3) of the Income Tax Act in P.A.N./G.I.R. TR.35 dated 10th June 2003 and P.A.N./G.I.R. TR.No.35/CR.II/03-04 dated 11th June 2003 issued to the respondents 2 to 6.

2.It is seen that one P.R.Perumal, an Income Tax Assessee had defaulted in payment of Income Tax to the tune of Rs.2,48,53,045/-. The Assessing Officer had forwarded a list of immovable properties belonging to P.R.Perumal to the Office of the Tax Recovery Officer and one such property is Plot No.1026, No.16, Central Cross Street, M.K.B.Nagar, Vysarpadi, Chennai, which was attached by the Income Tax Authorities.

3.The petitioner, who is the son of the said Perumal, has filed the present Writ Petition, challenging the proceedings on the ground that he is the owner of the property and not P.R.Perumal.

4.The Tax Recovery Officer has filed a detailed counter, wherein it is stated that Perumal himself had shown the said property as belonging to him and that he had also offered the rental income from this property to tax in his return that was filed for the Assessment Year 1998-99.

5.According to the learned counsel for the petitioner, he is the actual owner of the said property having purchased the same on 01.11.1989, vide document No.460 of 1989. Though in the typed set of papers, the learned counsel for the petitioner has relied upon the certified copy of the document No.2404 of 1989 dated 01.11.1989, yet in paragraph No.2 of his affidavit filed

before this Court in support of the Writ Petition, he has stated that he has purchased the property vide document No.460 of 1989. Thus, there is a different version of the petitioner himself with regard to the ownership and purchase of the said property. However, under the rules, it is always open to the petitioner to appear before the Tax Recovery Officer and place all the records before him to establish that he is the actual owner of the said property and not P.R.Perumal.

6.In the result, the prayer sought for by the petitioner cannot be granted and this Writ Petition is dismissed, with liberty to the petitioner to appear before the Tax Recovery Officer, within a period of three months from the date of receipt of a copy of this order and submit all his objections to the same. No costs.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

To

The Tax Recovery Officer,
Central II,
108, M.G.Road,
Chennai - 600 034.

+1 CC to M/s. T. Pramodkumar Chopda, Advocate sr 1985

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CNR(CO)
sp/10/2

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