IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.06.2019

PRONOUNCED ON : 21.06.2019

CORAM:

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

WP.NO.724 OF 2007

T.Amirthapandian .... Petitioner

Vs

1. The Special Commissioner and Commissioner of Land Reforms, Chepauk, Chennai - 600 005.

2. Appellate Authority and Assistant Commissioner, Urban Land Tax, Madurai - 625 020.

3. The District Revenue Officer, Madurai - 625 020. .... Respondents

Prayer:-

Writ Petition has been filed Article 226 of the Constitution of India seeking a Writ of Certiorari, calling for the records relating to the order dated 13.02.2006, passed in Rc.No.1151/2004 (B2) on the file of the Special Commissioner and Commissioner of Land Reforms, Chepauk, Chennai- 600 005 (the first respondent herein) and to quash the same.

For Petitioner : M/s.Elizabeth Ravi for Mr.P.Raja

For Respondent : Mr.Akhil Akbar Ali Government Advocate

O R D E R

The instant writ petition is for a writ of certiorari, calling for the records relating to the order dated 13.02.2006, passed a R.C.1151/2004(B2) on the file of the Special Commissioner and Commissioner of Land Reforms,Chepauk, Chennai-5 and quash the same.

2. The petitioner states that he was the owner of land bearing in Survey No.409/1 B, Avaniyapuram village, in Madurai District, land measuring about 13 grounds and 163 square feet. The petitioner states that he was running the business in the name and style of Madhu A/C Theatre. The District Revenue Officer Tribunal, Madurai, has issued a show-cause notice proposing to levy the tax under the Tamil Nadu Urban Land Tax Act. The petitioner was directed to file his objection. It is stated by the petitioner, without affording an opportunity to the petitioner to produce documents or affording opportunity of hearing, the District Revenue Officer Tribunal, passed an order of assessment vide assessment No.115/90/P1391 determining the market value of the land at Rs.25,000/- per ground. The petitioner preferred statutory appeal to the Appellate Authority and Assistant Commissioner, Urban Land Tax, Madurai. The petitioner states that appeal was dismissed on 20.12.2003. The petitioner thereafter, states that he has filed a revision petition before theSpecial Commissioner and Commissioner of Land Reforms, Chepauk, Chennai-5, raising a number of contentions in his memorandum of revision and also during his personal hearing. Special Commissioner and Commissioner of Land Reforms, Chepauk, Chennai-5,by order dated 13.02.2006, dismissed the revision petition. It is this order which is under challenge in the writ petition.

3. The petitioner contends that there are materials on record which would show that the petitioner was not liable to pay tax in question. It is also stated that the Special Commissioner and Commissioner of Land Reforms, Chepauk, Chennai-5, ought to have considered the subsequent event, like the policy of the Government to grant exemption to the land owned by the petitioner where the cinema theatre was being run. It is further states that the ceiling limit of petitioner land is 3,000 square meter. The respondents have been filed a counter denying the averments.

4. Heard the counsel for the parties.

5. The learned counsel for the petitioner very strenuously contended that the petitioner was not given any opportunity for producing documents or any opportunity for hearing by the District Revenue Officer Tribunal, Madurai. The order has not been in compliance with the principles of the natural justice. On the other hand, the learned counsel for the respondent would submit that the Special Commissioner (Land Reforms& Urban Land Tax), Madurai, was issued notice in Form - 4B, in the name of Thiru.T.Amirthapandian proposing levy of Urban Land Tax,in

respect of Survey No.409/1 B, Avaniyapuram village, in Madurai District.The said notice was received by the petitioner on 15.03.90.

6. It is stated by the petitioner that he did not appear on the date of hearing and he has not filed any document or written statement. It is stated in the counter affidavit which has not been denied in the rejoinder that District Revenue Officer, Tribunal had posted the case for hearing on 10.12.2002, 10.01.2003, 18.02.2003, 21.03.2003, 02.09.2003, 03.10.2003 and 08.12.2003. It is contended that the despite so many opportunities, the petitioner nor his counsel appeared before the District Revenue Officer Tribunal, by filing any objection. The District Revenue Officer Tribunal, therefore on the scrutiny of the records passed an assessment order. It is stated that the Appellate Authority has also confirmed the order after verifying the records.

7. A perusal of the order of the Revenue Authority who also indicated that no material has been produced before the Revenue Authority which would have a bearing on the quantum of tax or that he was not given sufficient opportunity to defend his case.The revision authority on the basis of material placed before it found that the petitioner did not appear before the assessment authority nor he has send any objection to the proposed levy of Urban Land Tax adopting the market value of Rs.25,000/- per ground. The Revenue Authority also observed "even now the petitioner filed to place any material evidence to sustain hisclaim on the market value of the land."

8. The Revision Authority however directed the authorities to allow 10% tax concession for the cinema theatre land provided the petitioner produces records. This apart, the order has not been challenged by the Revenue. As stated earlier, despite several opportunities, the petitioner did not appear for producing records. The petitioner also failed to substantiate his contention. Even in the writ he has not produced any material. There is no infirmity in the impugned order passed by the authorities below. The writ petition is completely devoid of merits and the writ petition is dismissed. No Costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Pkn

To

1. The Special Commissioner and
   Commissioner of Land Reforms,
   Chepauk, Chennai - 600 005.

2. Appellate Authority and
   Assistant Commissioner,
   Urban Land Tax, Madurai - 625 020.

3. The District Revenue Officer,
   Madurai - 625 020.

+1cc to M/s.Elizabeth Ravi, Advocate, S.R.No.57600

WP.No.724 of 2007

RK(CO)
CS/01/08/2019