

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.26899 of 2004
and
MP.No.32754 of 2004

Arulmigu Veda Vinayagar Temple,
17, Nethaji Road,
Manjakuppam, Cuddalore 1
rep by Hereditary Trustee Sanjeevi

....Petitioner

-vs-

1. The Special Commissioner and
Commissioner of Land Reforms
Chepauk, Chennai - 5.

2. The Tahsildar, Cuddalore.

...Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, calling for the records of the 2nd respondent connected with the distraint order in Form No.1 dated 04.09.2004 and quash the same.

For Petitioner : M/s.K.Chandrasekaran

For Respondents 1&2 : Mr.G.B.Rajesh

O R D E R

The order dated 04.09.2004 issued by the respondent attaching the property belongs to the writ petitioner in respect of the arrears of payment is under challenge in the present writ petition.

2. Even at the time when the writ petition was filed, the writ petitioner filed an application before the first respondent / The Special Commissioner and Commissioner of Land Reforms for adjudication of the grounds raised. The learned counsel for the writ petitioner states that the writ petitioner earlier filed

WP.No.23509 of 2001 and this Court passed an order dated 17.01.2002 directing the respondents to consider the application submitted by the writ petitioner and pass orders. However, no decision had been taken with reference to the orders passed by this Court in WP.No.23509 of 2001.

3. This Court is of an opinion that, in respect of the order impugned regarding the attachment, certain factual details ought to be adjudicated by the Competent Authorities. If at all the writ petitioner has raised certain legal grounds, the same also to be adjudicated by providing opportunity to all the parties concerned. Such complex, facts and circumstances arising on account of certain issues cannot be adjudicated under Article 226 of the Constitution of India. All such issues ought to be adjudicated by producing original documents and by adducing evidences and with reference to the files available with the respondents.

4. This being the principles to be followed, this Court is of an opinion that, the writ petitioner shall be provided with an opportunity to adjudicate all the points before the Appellate Authority namely The Special Commissioner and Commissioner of Land Reforms, Chepauk, Chennai-5. In this view of the matter, the writ petitioner is permitted to submit a fresh appeal setting out all the facts and circumstances as well as the legal grounds within a period of four weeks from the date of receipt of a copy of this order. If any such appeal is received by the first respondent, then the first respondent is directed to consider the grounds if any raised by the writ petitioner and pass orders on merits and in accordance with law by affording reasonable opportunity to all the parties concerned within a period of 12 weeks thereafter. The writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pkn

To

1. The Special Commissioner and
Commissioner of Land Reforms
Chepauk, Chennai - 5.

2. The Tahsildar, Cuddalore.

+1cc to Mr. K.Chandrasekaran, Advocate, S.R.No. 641
+1cc to the Government Pleader, S.R.No. 525

W.P.No.26899 of 2004

SV(CO)
GN(30/01/2019)



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