IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.03.2019

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.9911 of 2004
&
W.P.M.P.No. 11587 of 2004

V.Muthukumar ...Petitioner

-Vs-

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

2.The Asst. Commissioner (ULT),
Pollachi.

3.The Tahsildar, Taluk Office,
Pollachi. ...Respondents

Prayer: Memorandum of Writ Petition filed Under Article 226 of the Constitution of India, calling for the records relating to the 1st respondent's proceedings in RC.No.6635/2002 / D2 dated 17.03.2004 and to quash the same.

For Petitioner : Mr.P.Radha Krishnan

For Respondents : Mr.K.Bhuvaneswari,
Additional Government Pleader

O R D E R

The facts in the present writ petition is that the petitioner's father, who was the original assessee of the lands in T.S.No.113, Ward No. 4 of the Pollachi Town had converted the subject lands into house sites and had sold them between 1994 - 1995. Since the original assessee had not informed the respondents about the sales as required under Section 19(1) of the Urban Lands Tax Act, the Assistant Commissioner, Pollachi had passed an assessment order demanding land tax till Fasli 1412.

2. Pending the revisional petition, the original assessee died and the present petitioner was brought on record as his legal heir. The revisional authority had also rejected the revision holding that, since the original assessee had failed to inform about the sale to the assesssing officer, there was no infirmity in the original assessment orders. As against the same, the present writ petition has been filed.

3. The respondents, herein, have filed their counter affidavits dated 15.07.2013 wherein, they had stated that the father of the present writ petitioner did not produce any documentary evidence about the sales effected in the year 1995 - 1996 and that, if informed to the respondents immediately after the sales, the respondents could have revised the tax to the appropriate extent held by them from time to time.

4. The learned Additional Government Pleader also submitted that under Sec.19(1) of the Urban Land Tax Act, it is incumbent that every transfer of land has to be informed to the competent authority and till such time, the payment of the Urban Land Tax assessed on the Urban Land transferred is mandated under Section.19(4). As such, the learned Additional Government Pleader would submit that there was no infirmity in the assessment of sales tax.

5. The learned counsel for the petitioner tried to impress this Court to take a lenient view, since the petitioner's father had, by oversight, failed to inform about the sale to the authorities and that if an opportunity is given to him to establish that the subject lands were sold as early as on 1995-1996, he would produce the required documents before the concerned authorities.

6. On a prima facie view, I do not find any infirmity in the assessment made, since the original assessee had failed to inform the authorities about the sales immediately. Nevertheless, since the encumbrance certificate produced before this Court evidences that the said lands were already sold in the year 1995-1996, it would be appropriate to call upon the authorities to reconsider the original assessment made.

7. In the light of the above observations, the proceedings of the first respondent dated 17.03.2004, confirming the orders of the Assistant Commissioner, Pollachi dated 14.02.1994 in case dated 1/1404 (RNR 122/1993) are set aside. Consequently, the matter is remanded back to the second respondent herein, who shall reconsider the petitioner's claim after giving due opportunity to him to produce necessary records evidencing the sale effected over the urban lands. Such an exercise shall be completed as expeditiously as possible. Accordingly, this writ

petition is ordered. Consequently, connected miscellaneous petition is closed. No costs.

kkn

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

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

2.The Asst. Commissioner (ULT),
Pollachi.

3.The Tahsildar, Taluk Office,
Pollachi.

+1cc to Mr.A.Chandrasekaran, Advocate, SR.No.20447
+1cc to the Govt.Pleader, Vide Sr.No.21452

W.P.No.9911 of 2004
and
W.P.M.P.No. 11587 of 2004

Kak(02/07/2019)