

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 11148 of 2016  
and  
W.M.P. Nos. 9862 and 16737 of 2016

D.Harish Kumar, Franchise Holder of "Junior Kupanna"  
Having Office at AP 2261  
H-Block, 10th Street  
(Opp. Kathiravan Colony)  
Anna Nagar, Chennai - 600 040. ...Petitioner

-vs-

1. The Commercial Tax Officer II  
Commercial Tax Department  
Government of Puducherry  
T.P. Nagar, Puducherry - 5.
2. The City Union Bank Limited  
Singapore Plaza  
No.53 & 54, Mission Street  
Puducherry.
3. L.Periyasamy
4. P.Mangaiyarcarrassy ...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for records relating to the notice issued vide No.837/CTO-II/A2/2015-16 dated 13.01.2016 passed by the First Respondent and quash the same.

For Petitioner : Mr. Karthikei Balan

For Respondents : Mr. Stalin Abimanyu (For R1)  
Additional Government Pleader  
(Pondicherry)

O R D E R  
(through video conference)

Heard Mr. S. Karthikei Balan, Learned Counsel for the Petitioner, Mr. Stalin Abimanyu, Learned Additional Government Pleader (Pondicherry) for the First Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Notice No. 837/CTO-II/A2/2015-16 dated 13.01.2016 passed by the First Respondent. It is borne out of the record that the property now claimed by the Petitioner had been attached by Gazette Notification issued on 16.02.2010 under the Puducherry Value Added Tax Act, 2007, for the recovery of tax due by one P. Vasanthi, Proprietrix of M/s. Vasanthi Automobiles, Puducherry, who was the owner of that property as on that date.

3. Though the affidavit filed in support of this Writ Petition is conspicuously bereft of any details as to the date on which the Petitioner had become lessee of the property, it is the specific case of the Petitioner that he claims such lease only through the Third and Fourth Respondents. The documents produced by the Petitioner in the typed-set reveals that the property had not been conveyed by the said P. Vasanthi, but the Third and Fourth Respondents have discharged the liability of the said P. Vasanthi due to the Second Respondent, viz., City Union Bank, which has been recorded by this Court in the order dated 23.02.2012 in W.P. No. 3696 of 2012 and M.P. No. 1 of 2012 in W.P. No. 24781 of 2011, and registered as document No. 1914 of 2012 in the Office of the District Registrar, Puducherry.

4. These facts would suffice to prove that the entire claim of the Petitioner as lessee to the property has been made subsequent to the order of attachment published in the Gazette Notification, meaning thereby that the right of the First Respondent to proceed further in pursuance of that attachment for recovery of the arrears of tax due cannot be interdicted. As such, there is no infirmity in the impugned order requiring any interference by this Court in the exercise of the discretionary powers of judicial review under Article 226 of the Constitution.

In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Maya/kv

To

1. The Commercial Tax Officer II  
Commercial Tax Department  
Government of Puducherry  
T.P. Nagar, Puducherry - 5.
2. The City Union Bank Limited  
Singapore Plaza  
No.53 & 54, Mission Street  
Puducherry.

+1cc to M/s.S.Karthikei Balan, Advocate, S.R.No.33059  
+1cc to the Government Pleader, S.R.No.32788  
+1cc to M/s.R.S.Varadarajan, Advocate, S.R.No.32757

W.P.No. 11148 of 2016

LN (CO)  
KKV/11/11/2020



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