IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2020

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.NOS.33944 AND 35116 OF 2005
AND
WP.MP.NOS.36833 AND 38065 OF 2005

Madras Race Club
represented by its Officer in charge (legal)
S.Aruna, Guindy,
Chennai 600 032. ...Petitioner in both WPs

Vs

The Tax Recovery Officer I
Company Range I, Room No.604
121 M.G.Road, Ayakar Bhavan
6th Floor, New Block
Chennai – 600 034. ...Respondent in both WPs

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the respective impugned notices dated 20.09.2005 and 14.10.2005 bearing T.R.No.20B/2002-03 on the file of the respondent and quash the same and consequently forbear the respondent from bringing the property for sale comprised in Survey No.24/1 subdivided as Survey Nos.24/2, 24/3, 24/4 admeasuring an extent of 2 acres bounded on the North by: House & Bungalows, Gulmohar Avenue, South by: 20 feet Road and Bungalows, East by: 100 feet Velachery Road, West by: II S.No.29 Old No.77 and 76/2 at No.137 Velachery Village, Guindy, Chennai- 32.

For Petitioner : Mr.L.Dhamodaran

For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

COMMON ORDER

According to the petitioner/Madras Race Club, they are in continuous possession and enjoyment of the property measuring 12.53 acres in Block Nos.15 and 16 of Velachery Village, Saidapet Taluk, Chennai without any interruption, as a lessee.

They have been paying Urban Land Tax to the Urban Land Authority in lieu of the rent payable to the landlord in respect of the land in question, right from 1985 onwards. Be that as it may, during the year 2004, one Jayasimha Pandian, Proprietor of M/s.Jayasimha Enterprises, tried to interfere with the possession and enjoyment of the property in question, under the guise of exparte order of injunction obtained against one Jayapoorna Chandra Rao, Salim Ibrahim Firdhouse and Bahim Ibrahim Safari, who are the Directors of M/s.Bay Orient Realty Pvt. Ltd. Hence, the petitioner approached this Court by filing O.A.No.368 of 2004 in CS.No.366 of 2004 and obtained an order of interim injunction on 21.04.2004 against the aforesaid persons. Further, there are civil suits pending between the parties with respect to the issue relating to title and ownership of the property in question. In such circumstances, the respondent issued a notice dated 20.09.2005 under Rule 83 of the Second Schedule to the Income Tax Act, 1961, calling upon the petitioner to appear and produce all the relevant records in respect of the property allegedly owned by M/s.Bay Orient Reality Pvt. Ltd, which is liable to pay a sum of Rs.33,30,608/- towards arrears of income tax for the assessment years from 1993-94 to 1995-96. The petitioner duly filed its reply on 25.09.2005. Being dissatisfied with the same, the respondent issued another notice dated 14.10.2005, calling upon the petitioner to clarify with respect to the alleged ownership of the property in S.Nos.24/3 and 24/4 in Block No.15 of Velachery Village, Guindy Taluk, Chennai by M/s.Bay Orient Reality Pvt. Ltd. In response to the same, the petitioner submitted its reply on 19.10.2005. However, the respondent attached the said property, without giving any notice to the petitioner. Aggrieved over the same, the petitioner has filed the present two writ petitions to quash the respective notices dated 20.09.2005 and 14.10.2005 and consequently, forbear the respondent from bringing the said property for sale.

2.Heard both sides and perused the documents placed before this Court.

3.The challenge made in the present writ petitions is only to the summons issued by the respondent under Rule 83 of the Second Schedule to the Income Tax Act, 1961, by which, the petitioner was directed to appear in person before the respondent on the particular date, with all the relevant documents and clarify with respect to the alleged ownership of the property in S.Nos.24/3 and 24/4 in Block No.15 of Velachery Village, Guindy Taluk, Chennai by M/s.Bay Orient Reality Pvt. Ltd, which is the defaulter in payment of income tax to the tune of Rs.33,30,608/- for the assessment years from 1993-94 to 1995-96. Without adhering to the said direction, the petitioner has straight away approached this Court with the present writ petitions to quash the summons impugned herein. Such sort of approach cannot be countenanced by this Court. Hence, the writ petitions deserve to be dismissed.

4.Accordingly, both the writ petitions are dismissed. However, the petitioner is granted liberty to approach the respondent with all the relevant documents and get appropriate orders. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

arr/rk

To

The Tax Recovery Officer I
Company Range I, Room No.604
121 M.G.Road, Ayakar Bhavan
6th Floor, New Block
Chennai - 600 034.

+1cc to Mr.L.Dhamodaran, Advocate, S.R.No.23484
+1cc to Mrs.Hema Muralikrishnan, Advocate, S.R.No.23385

W.P.Nos.33944 and 35116 of 2005

KS(CO)
CS/17/07/2020