IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM

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

W.P. No. 10591 of 2018
and
W.M.P. No. 12552 of 2018

S.Kasthuri ... Petitioner

-vs-

1. The Commercial Tax Officer,
Office of the Commercial Tax,
Thiruvarur Assessment Circle,
Thiruvarur District.

2. M/s. Aroor Marketing
Represented by its Proprietor,
Mr.S.Arun,
No.89/1, Arun Complex,
Nalukal Mandapam,
Myladuthurai Main Road,
Thiruvarur. ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned auction sale notice dated 06.04.2018 under proceeding bearing Na.Ka.No.1182/2016/A3 on the file of the First Respondent herein, quash the same and directing the First Respondent herein to lift the notice of attachment attaching the schedule mentioned property.

For Petitioner : Mr. R.Balachanderan

For Respondents: Mr. A.N.R.Jayaprathap (For R1)
Government Advocate

O R D E R
(through video conference)

Heard Mr. R.Balachanderan, Learned Counsel for the Petitioner and Mr. A.N.R.Jayaprathap, Learned Government Advocate appearing for the First Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges auction sale notice in Na.Ka.No.1182/2016/A3 dated 06.04.2018 issued by the First Respondent for bringing the property of the Petitioner situated at Plot No. 50, Ward No. 3, Sambasivam Nagar, Vimal, Tiruvarur Municipality for recovery of sales tax dues payable by the Second Respondent, who is the son of the Petitioner.

3. It has not been explained as to how the Petitioner would be liable for payment of the sales tax dues owed by the Second Respondent merely because she happens to his mother. The sale deed No. 1547 dated 13.06.1990 produced by the Petitioner shows that the property has been purchased in her name, meaning thereby that it is her self-acquired property. The impugned order also accepts the position that the attached property belongs to the Petitioner. As such, it is not possible to sustain the impugned order, which shall stand quashed. Though obvious, it is made clear that it would not preclude the First Respondent from pursuing for recovery of the amount due from the Second Respondent in respect of his properties in the manner recognised by law.

In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Office of the Commercial Tax,
Thiruvarur Assessment Circle,
Thiruvarur District.

+1cc to the Special Government pleader Sr.36182

W.P. No. 10591 of 2018

bp[co]
srg 20/11/2020