BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 30.09.2020
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.12286 of 2020

M.Raju ... Petitioner

Vs.

1.The Principal Chief Commissioner of Income Tax,
Mahatma Gandhi Road,
Nungambakkam, Chennai.

2.The Commissioner of Income Tax,
Income Tax Department, Tirunelveli.

3.Ram Prasath ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to initiate appropriate enquiry against the third respondent on the complaint of the petitioner dated 10.02.2020.

For Petitioner	:	Mr.J.Anand Kumar, For Mr.S.Ravi.
For R1 and R2	:	Mrs.S.Srimathy, Special Government Pleader
For R3	:	Mr.Suhrith, for Mr.P.Samuel Gunasingh

O R D E R

Heard the learned counsel for the writ petitioner, the learned Special Government Pleader appearing for the first and second respondents and the learned counsel appearing for the third respondent.

2.The petitioner has given a complaint dated 10.02.2020 before the first respondent. The complaint is directed against the third respondent. The petitioner wants this Court to direct the first respondent to take action against the third respondent based on the said complaint.

3.The third respondent had filed a detailed counter affidavit and also typed set of papers. The learned counsel appearing for the third respondent reiterated all the contentions set out therein.

4.After hearing the learned counsel on either side, I am of the view that there is no merit in this writ petition. As rightly pointed out by the learned counsel appearing for the third respondent, the petitioner has not any where averred as to the nature of the legal right infringed in this case. To maintain a Writ of Mandamus, the petitioner has to necessarily demonstrate the existence of a legal right in him. I carefully went through the contents of the complaint dated 10.02.2020. From a reading of the said complaint as well as the stand taken in the counter affidavit filed by the third respondent, one can notice that there was business transaction between the petitioner and the third respondent. The third respondent claims that he has advanced a sum of Rupees Two Crores to the writ petitioner. It is further seen that the relationship between them had gone sour. Criminal cases had been registered at the instance of both the parties. The third respondent has recently given a complaint and the petitioner is figuring as the first accused therein. It is also stated that the petition for anticipatory bail filed by the petitioner was dismissed as recently as on 07.09.2020. This writ petition itself came to be filed on 16.09.2020. Thus there is considerable substance in the contention of the learned counsel for the third respondent that the very filing of this writ petition is a counter blast to the legal action taken by the third respondent. It is further stated that the third respondent is an assessee on the file of the Income Tax Department and that his previous returns have been processed and accepted. There is a statutory scheme governing the manner in which the tax returns are processed and accepted. It is entirely for the department to proceed in the matter, if it finds anything amiss. The petitioner cannot use the process of the Writ Court for settling his scores. I find no ground to issue any direction as sought for. The writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The Principal Chief Commissioner of Income Tax,
Mahatma Gandhi Road,
Nungambakkam,
Chennai.

2.The Commissioner of Income Tax,
Income Tax Department,
Tirunelveli.

+1 CC to M/s.S. SRIMATHY, Advocate (SR-18613[F] dated 01/10/2020)

W.P.(MD)No.12286 of 2020
30.09.2020

MR(CO)
KM (12.10.2020) 3P 4C