IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17-04-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.17253 of 2012
And
MP No.2 of 2012

M/s.Srinivasa Enterprises,
Represented by its Managing Partner,
R.Vivek S/o.S.Ramakrishnan,
Office at No.406, 17^{th} Phase,
SIDCO Industrial Estate,
Ambattur,
Chennai-600 098.
.. Petitioner

vs.

1.The Sub Registrar,
Office of the Sub Registrar,
Ponneri-601 204.

2.The Tax Recovery Officer-I,
Company Range-I,
Income Tax Department,
Chennai-34.
.. Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records in attachment notice dated 22.09.2009 in T.R.No.43-C/05-06 & 49 - Cof 06-07 on the file of the second respondent and quash the same as arbitrary, illegal and unjustifiable.

For Petitioner : Mr.R.Thiyagarajan,
Senior Counsel for
Mr.S.Ramesh Kumar.

For Respondent-1 : Mr.T.M.Pappiah,
Special Government Pleader.

For Respondent-2 : Ms.Hema Muralikrishnan,
Senior Standing Counsel.

O R D E R

The relief sought for in the present writ petition is to call for the records in attachment notice dated 22.09.2009 in T.R.No.43-C/05-06 & 49 - Cof 06-07 on the file of the second respondent and quash the same.

2. The letter dated 22.09.2009, which is impugned, reveals that the said letter was issued by the Tax Recovery Officer, Company Range-I, Income Tax Department, Chennai-34, addressed to the Sub Registrar, Ponneri Taluk, Ponneri,Tiruvallur District. Further, the impugned notice reveals that certain details are sought to be furnished to the Tax Recovery Officer, on or before 06.10.2009 by the Sub Registrar, Ponneri Taluk, Ponneri, Tiruvallur District.

3. The Tax Recovery officer is in the process of collecting the materials and informations for forming an opinion and initiation of action. The last paragraph of the letter impugned, reads as under:-

> "You are also hereby intimated not to allow the above defaulter from further alienation and transfer of any of the properties attached by the department, and also not to register any of the sale of the properties attached by the department without previous approval or No Objection Certificates from the Incometax, and you are also requested to intimate the persons whoever contacting you in respect of transfer/sale of the defaulter's properties mentioned above, to contact the undersigned in this regard, and failure in this regard will be viewed very seriously, and necessary legal action will be taken as per the directions of the Higher Authorities.
>
> The above details are required to be furnished on or before 06-10-2009."

4. This Court is of the considered opinion that the letter addressed to the Sub-Registrar, Ponneri Taluk, Ponneri, Tiruvellur District, per se, would not provide cause of action for filing the present writ petition. If at all the petitioner is aggrieved with reference to certain contents in the letter, the petitioner is bound to approach he Competent Authority and submit explanations, objections or documents in order to establish or defend his case.

5. Contrarily, this Court cannot adjudicate such disputed facts in writ proceedings under Article 226 of the

Constitution of India. All such factual disputes are to be adjudicated and resolved before the Competent Authority. Under Rule 11, Schedule II of the Income Tax Act, provides remedy to the aggrieved person and therefore, the petitioner has to avail the remedy by approaching the Authorities Competent in the manner known to law.

6. In view of the fact that the impugned letter was issued by the Tax Recovery Officer to the Sub Registrar, Ponneri Taluk Ponneri, Tiruvallur District, seeking certain details, the same would not provide a cause of action for the purpose of moving the present writ petition nor this Court adjudicate all such disputed facts under Article 226 of the Constitution of India. Thus, liberty is granted to the petitioner to approach the Competent Authority for the redressal of his grievances by producing evidences or documents.

7. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Svn
To

1.The Sub Registrar,
Office of the Sub Registrar,
Ponneri-601 204.

2.The Tax Recovery Officer-I,
Company Range-I,
Income Tax Department,
Chennai-34.

+1cc to M/s.Hema Muralikrishnan, Advocate SR.No.
+1 cc to Government Pleader Sr.No. 23675

A.SK(11.06.2021)