



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2021

CORAM:

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.1552 OF 2016

AND

W.M.P.NOS.1323 AND 1324 OF 2016

R.Jayabalan

... Petitioner

.Vs.

1. The Assistant Commissioner,
Peelamedu South Tax Revenue Zone,
Sales Tax Department,
Coimbatore - 18.
2. The Sub Registrar,
Registrar Office,
Meena Estate, Peelamedu Post Office,
Coimbatore - 4.
3. R.Arumugam
4. C.Shanmugam

... Respondents

PRAYER:-

This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the 1st respondent order dated 24.03.2010 in No.2102270/2004-05/A3/3 Dated 24.03.2010 and quash the same and to direct the 2nd respondent to make correction in the encumbrance certificate pertaining to the property bearing site No.50 in K.S.No. 246, 247, 248 situated at Karunanidhi Nagar, Souripalayam Village, Coimbatore.

For Petitioner : Mr.B.Nedunchezhiyan

For Respondents : Mr.V.Veluchamy
(for R1 and R2)
Government Advocate

No appearance
(for R3 and R4)



O R D E R

The order of attachment, attaching the property purchased by the writ petitioner is under challenge in the present writ petition.

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2. The petitioner had purchased the property bearing site No.50 in K.S.No.246, 247, 248 situated at Karunanidhi Nagar, Souripalayam Village, Coimbatore, from the 3rd and 4th respondents through sale deed dated 20.05.2004 registered in Doc. No.1290 of 2004 at Sub Registrar's Office, Peelamedu, Coimbatore.

3. The grievances of the writ petitioner is that the 1st respondent has passed an order of attachment of the subject property by citing that there is arrears of property tax which is to be paid to a sum of Rs.4,22,149/-. The petitioner submitted a representation to the respondents 1 and 2, to raise the attachment of the property in view of the fact that he is not liable to pay the property tax, but the respondents 3 and 4 are liable. However, the representation submitted by the petitioner was not responded. Thus, the petitioner was constrained to move the present writ petition.

4. The Assistant Commissioner (ST), Peelamedu South Circle, Coimbatore, filed a progress report regarding the actions taken with effect from 03.08.2021 pursuant to the directions issued by this Court. They formed an opinion that the original defaulter is not traceable.

5. Under these circumstances, if at all the petitioner is liable to pay the tax as demanded, an opportunity has to be offered to the petitioner to place all the facts to the authority competent. The main grievance of the petitioner is that so far he has not received any notice or the demand as such and thus, he is unable to defend his case. The representation submitted by the petitioner was also not responded.

6. This being the grievances raised, this Court is of the considered opinion that the petitioner is entitled for an opportunity and as he was a purchaser of the property from the respondents 3 and 4, his liability has to be determined with reference to the provisions of the Act.

7. Under these circumstances, the petitioner is at liberty to submit a fresh representation setting out the grounds both factual and legal, before the Deputy Commissioner of Commercial Taxes, Zone-3, Coimbatore, within a period of four weeks from the date of receipt of a copy of this order.



8. On receipt of any such representation, the Deputy Commissioner of Commercial Taxes, Zone-3, Coimbatore, is directed to furnish the copies of the demand notice and other details regarding the arrears of tax to the petitioner enabling them to submit further defense, on such documents. Thereafter, the Deputy Commissioner of Commercial Taxes, Zone-3, Coimbatore, shall conduct an enquiry based on the documents available on record and consider the grounds raised by the petitioner and by affording an opportunity to the writ petitioner, shall decide the issues on merits and in accordance with law, as expeditiously as possible. After complete enquiry and passing final orders, further action can be taken by following the procedures as contemplated.

9. With these observations the writ petition stands disposed of. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Commissioner of Commercial Taxes,
Zone - 3, Coimbatore.
2. The Assistant Commissioner,
Peelamedu South Tax Revenue Zone,
Sales Tax Department,
Coimbatore - 18.
3. The Sub Registrar,
Registrar Office,
Meena Estate, Peelamedu Post Office,
Coimbatore - 4.

+1cc to the Government Pleader, S.R.No.40040

+1cc to the Special Government Pleader (Taxes), S.R.No.40540
(15/09/2021)

W.P.NO.1552 OF 2016

PCH(CO)
PBS/31/08/2021