



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.23281 of 2013
and M.P.No.1 of 2013

N.Krishnamurthy ... Petitioner

Vs.

1.The Commercial Tax Officer,
Gudiyatham (East),
Gudiyatham,
Vellore District.

2.The Branch Manager,
State Bank of India,
Gudiyatham Branch,
Gudiyatham,
Vellore District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records pertaining to the orders passed by the 1st respondent in Na. Ka. A3/9378/2000 dt .7.2013 (signed on 26.7.2013) and quash the same.

For Petitioner : Mr.S.Kamadevan

For R1 : Mr.V.Veluchamy
Government Advocate

For R2 : No appearance

O R D E R

The relief sought for in the writ petition is to call for the records pertaining to the impugned order passed by the 1st respondent in proceedings dated 26.07.2013 and quash the same.

2.The petitioner is the bona fide purchaser of the land and building, measuring an extent of 4800 sq.ft., situated at Survey No.83/1, Sedukarai Village, Gudiyattam Taluk, Vellore District, pursuant to the public auction conducted by the Debts Recovery Tribunal, in proceedings initiated by the 2nd respondent Bank.

3.The petitioner states that the subject property belonged to one K.Elangovan and K.Vasu, brothers and Proprietors of Shri.Lakshmi Krishna Metals and Shri Sakthi



Metals, respectively. The Debts Recovery Tribunal conducted auction and the petitioner became the successful bidder, having bid a sum of Rs.3,10,000/- in the public auction held on 17.07.2003. After remitting the entire bid amount, the Debts Recovery Tribunal issued sale certificate in favour of the petitioner, conferring the title and ownership, and the sale certificate issued by the Debts Recovery Tribunal was also registered before the Sub-Registrar, Gudiyatham, as Document No.4682 of 2003.

4.The petitioner states that he is in peaceful possession and enjoyment of the subject property right from the year 2003. While so, the 1st respondent issued the impugned notice, dated 26.07.2013, stating that, one K.Elangovan and K.Vasu are the defaulters who failed to pay the arrears of Sales Tax. The arrears of Sales Tax due was for the Assessment Years 1996-97 to 1998-99. However, the fact remains that the property at the time of auction sale by the Bank was not attached by the 1st respondent Commercial Taxes Department by invoking the provisions of the Act.

5.The petitioner was a bona fide purchaser of the subject property and the sale certificate would reveal that the petitioner was the highest bidder, and accordingly, the sale was confirmed in favour of the petitioner, and he also paid the entire consideration and the sale certificate was also registered before the Sub-Registrar concerned. Till such time, there was no statutory attachment as contemplated under the provisions of the Act. In the absence of any such statutory attachment, when the property was sold by way of auction by the Nationalized Bank, namely State Bank of India, and the sale was confirmed in favour of the petitioner, and subsequently, sale certificate was also issued, now, the 1st respondent cannot issue the impugned notice seeking recovery of arrears of Sales Tax in respect of one K.Elangovan and K.Vasu. The petitioner admittedly had not purchased the subject property from the defaulters. The petitioner purchased the property through public auction conducted by the 2nd respondent/State Bank of India. Thus, for all purposes, the petitioner is a bona fide purchaser of the property, and the impugned notice does not have any legal sanction in the eye of law.

6.Thus, the impugned notice passed by the 1st respondent in Na.Ka.A3/9378/2000, dated 26.07.2013, is quashed and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar



To

1.The Commercial Tax Officer,
Gudiyatham (East),
Gudiyatham,
Vellore District.

2.The Branch Manager,
State Bank of India,
Gudiyatham Branch,
Gudiyatham,
Vellore District.

+1 cc to Government Pleader Sr.No. 31102

W.P.No.23281 of 2013

UM(CO)
B.VC(28.07.2021)