



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.23754 of 2013 and

MP.Nos.1 & 2 of 2013

V.Gopalakrishnan

... Petitioner

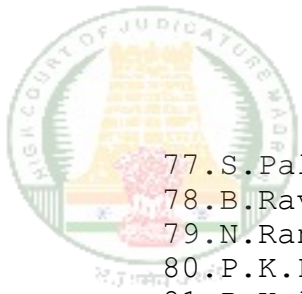
Vs

1. The District Collector,
Coimbatore District,
Collectorate Compound,
Coimbatore
2. The Tahsildar,
Mettupalayam Taluk,
Mettupalayam

- 3.K.Vijayachandran
- 4.S.Murugesan
- 5.J.Arul Raj
- 6.N.Muthusamy
- 7.M.Hammed
- 8.S.Parameswaran
- 9.P.Muthaiah
- 10.R.Duraisamy
- 11.A.Venkatachalapathy
- 12.P.Kandasamy
- 13.V.K.Palanisamy
- 14.K.Namadevan
- 15.S.Selvaraj
- 16.K.Rajamani
- 17.P.N.Thangaraj
- 18.C.S.Gopalakrishnan
- 19.A.Vadivelu
- 20.K.Guruvayurappan
- 21.N.C.Ponmalai
- 22.K.M.Gopalan
- 23.S.Ambrose
- 24.A.Palanisamy
- 25.V.Natarajan
- 26.T.N.Murugesan



- 27.P.Shanmugasundaram
- 28.K.Nagaraj
- 29.R.Thiruvengadam
- 30.N.Muralidharan
- 31.P.Pargunaan
- 32.R.Sureshkumar
- 33.E.Murugesan
- 34.C.Murugan
- 35.R.Govindaraj
- 36.J.Abraham
- 37.P.Dhanasekaran
- 38.A.Guruvayurappan
- 39.V.K.Gopalakrishnan
- 40.S.Senthamizh Selvan
- 41.R.Ponnusamy
- 42.D.Rangasamy
- 43.P.Appadurai
- 44.R.Subbaiyan
- 45.P.Kumarasamy
- 46.M.Devarasu
- 47.R.Velsamy
- 48.T.Jesudoss
- 49.M.S.Thaniaslas
- 50.N.Kannappan
- 51.T.N.Nanjayan
- 52.R.Nagarajan
- 53.K.Mayilsamy
- 54.A.Ramachandran
- 55.V.Rangaraj
- 56.A.Sampath
- 57.V.M.Kandasamy
- 58.V.Selvaraj
- 59.K.Manicka Vasagam
- 60.S.Selvaraj
- 61.N.Devaraj
- 62.G.K.Krishnan
- 63.V.Gunasekaran
- 64.T.Ilangovan
- 65.M.Subramaniam
- 66.N.Selvaraj
- 67.R.Ramachandran
- 68.K.Srinivasan
- 69.R.Rajan
- 70.R.Subramaniam
- 71.M.Chockalingam
- 72.T.N.Murugesan
- 73.P.Mohanraj
- 74.U.S.Selvaraj
- 75.G.Palanisamy
- 76.R.Bangarusamy



WEB

77.S.Palanisamy
78.B.Ravichandran
79.N.Rangaraj
80.P.K.Palanisamy
81.P.Kalichamy
82.N.Chinnasamy
83.P.Ramasamy
84.R.Selvan
85.R.Rajvelan
86.P.Rajendran
87.P.Nagaraaj
88.S.Velmani
89.V.Mayilsamy
90.T.R.Duraisamy
91.K.M.Palanisamy
92.R.Ponnusamy
93.R.Mohanarangam
94.V.Balakrishnan
95.R.Mani
96.K.Velan
97.AKrishnamoorthy
98.K.Sundaram
99.K.Raghu
100.R.Ramesh
101.B.S.Selvaraj
102.M.Mani
103.M.Duraisamy
104.V.Natraj
105.R.Sundaram
106.V.Vasudevan
107.T.Murugesan
108.A.Dasappan
109.R.Sarveswaran
110.K.Subramani
111.K.Arumugam
112.T.Rajendran
113.C.N.Chidambaranath
114.K.Kuppusamy
115.P.Udayakumar

(R3 to 115 impleaded as respondents vide
order dated 30.09.2021 in WMP.No.

40099 of 2018 in WP.No.23754 of 2013)

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the second respondent pertaining to the Notice of Attachment dated 14.08.2013 issued in Form 5 under Section 27 of the Tamil Nadu Revenue Recovery Act, 1864 and quash the same.



WEB COPY

For Petitioner : Mr.A.R.L.Sundaresan,
Senior Counsel
for Mr.P.Valliappan

For Respondents
For R1 & 2 : Mr.M.R,Gokul Krishnan,
Government Advocate

For R3 to115 : Mr.R.M.D.Nazarullah

O R D E R

The Writ Petition has been filed to issue a Writ of Certiorari, calling for the records of the second respondent pertaining to the Notice of Attachment dated 14.08.2013 issued in Form 5 under Section 27 of the Tamil Nadu Revenue Recovery Act, 1864 and quash the same.

2. The case of the petitioner is that he was one of the Director of M/s.Shri Lakshmi Gayathri Engineering Works Limited. It was engaged in the sale of machine parts by engaging more than 400 workers. However, the Company suffered losses and ultimately it was closed down on 28.03.1998. Due to non payment of salaries, several employees as respondents 3 to 115 filed different computation petitions before the Labour Court under Section 33(c) (ii) of the Industrial Disputes Act, 1947. Several awards have been passed and the respondents 3 to 115 are entitled for amounts claimed by them. In the computation petitions, Labour Court passed award by specifically holding that the award is passed only against the Company i.e. M/s.Shri Lakshmi Gayathri Engineering Works Limited and not as against the individual capacity of the petitioner herein. Therefore, the salary of the employees have to be settled by the Company and not by the petitioner out of his separate properties. The petitioner has purchased the properties by the registered sale deeds dated 12.04.1973 and 21.05.1974 comprised in SF.No.198/3, 200/2, 203/2, 204(part), 205, 208, 165, 167/3, 168/2, 202 and 222/2, Odandurai Village, Mettupalayam. These properties are nothing to do with the Company and subsequently the petitioner settled these properties in his daughter's favour i.e. Gayathri under the settlement deed dated 04.04.2007. Even then, the second respondent issued the impugned order of attachment made under Section 27 of the Revenue Recovery Act, 1864 in Form No.5 to attach the properties purchased in his individual name.

3. Mr.A.R.L.Sundaresan, Senior Counsel appearing for the petitioner submitted that the Labour Court by order dated 31.08.2009 passed order in the computation petitions and specifically referred that the respondents 3 to 115 are entitled to monetary claim from the management of the Company by name M/s.Shri Lakshmi Gayathri Engineering Works Limited and



Mr.V.Gopalakrishnan who is the Chairman cum Director of the said Company is not personally liable to pay to the respondents 3 to 115. Therefore, the order can be passed only as against the Company and not as against the petitioner herein in his individual capacity. Even then, the second respondent issued the impugned notice of attachment to attach the property which were purchased by the petitioner on his individual capacity for attachment. He further submitted that before issuing Form No.5 as contemplated under Section 27 of the Revenue Recovery Act, 1864, the respondent ought to have followed the procedure contemplated under Sections 25 and 26 of the Revenue Recovery Act. Before attachment of the property, the demand to be served. Thereafter, if the said demand is not paid or not arranged for securing the same shall have been entered into, to the satisfaction of the Collector in that behalf, he shall proceed to recover the arrear by the attachment and sale of the defaulters' land. In the case on hand, the second respondent did not follow the procedure as contemplated under the Revenue Recovery Act.

3.1 He further submitted that his daughter already filed writ petition before this Court in WP.No.4214 of 2009 for mandamus restraining the second respondents from seizure and distress sale of the subject property. However, the said writ petition was dismissed by order dated 10.12.2009. While dismissing the writ petition, this Court observed that the Government passed order on 07.02.2007 and the settlement deed is came to be signed only on 04.04.2007. Therefore, the demand made by the his daughter only to scuttle the revenue recovery proceedings with untenable contentions is not permissible. Aggrieved by the same, the petitioner's daughter preferred writ appeal in WA.No.624 of 2010 and the Hon'ble Division Bench of this court also held that as to whether the property in question was a self acquired property or family property or acquired by the petitioner's father in the capacity of Director of the Company, cannot be gone into by this Court particularly when earlier Government orders were not challenged by the petitioner. Moreover, the property was transferred after the Government Orders were issued. Hence, the writ appeal was also dismissed by the Hon'ble Division Bench of this Court by order dated 23.09.2010. Therefore, though the petitioner settled the property in favour of his daughter, now the impugned order has been issued by the second respondent to attach the property which was originally purchased in the name of the petitioner's individual capacity.

4. Per contra, the second respondent filed counter and Mr.M.R.Gokul Krishnan, Government Advocate submitted that the petitioner employed more than 400 employees in his Company by name M/s.Shri Lakshmi Gayathri Engineering Works Limited, which



was closed in the year 1998. The petitioner also failed to pay any salary and other entitlement to his labourers and as such they were constrained to approach the Labour Court with computation petitions. The Labour Court passed orders in favour of employees and subsequently approached the Government of Tamil Nadu to execute the judgment. After satisfying the order produced by the labourers, the Government passed orders on 07.02.2007, 10.07.2007 and 19.07.2007 as per Industrial Disputes Rules and directed the respondents to recover the amount from the Company as per the Revenue Recovery Act. When the first respondent collected details of the immovable properties of the Company, except the land situated in Bilichi Village, there was no other property. Even the said property was also attached by the Bank of Baroda, Coimbatore Branch and sold out for Rs.1,00,00,000/-. Subsequently on searching the entire Coimbatore District, the first respondent came to understand that the petitioner was owning the subject property. Therefore, the first respondent found passed orders and empowered the second respondent to take action to seize and sell subject property. Accordingly, the second respondent initiated to cease and distress sale of the said properties. During the said process, on 05.02.2009 the second respondent visited the subject property and issued notice to the person who managed the said property. He refused to receive the said notice and as such notice dated 10.02.2009 was affixed in the subject property. However, the said person approached the second respondent and collected all the details of the proceedings. While being so, the petitioner's daughter filed writ petition in WP.No.4214 of 2009 before this Court and got dismissed. Aggrieved by the same, she filed writ appeal in WA.No.624 of 2010 and the same was also dismissed and in fact she approached the Hon'ble Supreme Court of India in SLP.No.34895 of 2010 and the same was also dismissed by order dated 01.04.2013. Therefore, the intention of the company is not to pay anything to the employees since the petitioner settled the property in favour of his own daughter after Government Order dated 07.02.2007. Now, again the petitioner challenged the attachment notice on the ground that the subject properties are purchased in the name of the petitioner and not in the name of the Company.

5. Mr.R.M.D.Nazarullah, the learned counsel for the respondents 3 to 115 submitted that the Company was closed illegally by management without getting any prior permission from the Government as per Section 25(O) of the Industrial Disputes Act, 1947. Therefore, they were constrained to approach the Labour Court seeking computation of arrears of wages due to them from the date of the illegal closure from 28.03.1998. The Labour Court considered their claim and allowed their claim and directed the management of M/s.Shri Lakshmi Gayathri Engineering Works Limited to pay arrears of wages from the date of illegal



closure to the date of their claim petitions. Since the petitioner did not comply with the order passed by the Labour Court, they approached the Government to issue recovery certificate to the first respondent to recover the amount under the Revenue Recovery Act. Accordingly, the Government passed orders directing the first respondent to recover the amount computed by the Labour Court in their favour. Therefore, the respondents 1 and 2 have initiated action under the Revenue Recovery Act to attach the property purchased by the petitioner. After fully knowing the Government order dated 07.02.2007, the petitioner fraudulently executed settlement deed in favour of his daughter in respect of the subject property by the settlement deed dated 04.04.2007. On the strength of the settlement deed, his daughter challenged the recovery proceedings before this Court in WP.No.4214 of 2009 and the same was dismissed by this Court and confirmed upto the Hon'ble Supreme Court of India. Therefore, the present writ petition is nothing but clear abuse of process of law since already revenue recovery proceedings was challenged in the name of his daughter and it is nothing but second round of litigation.

6. Heard, Mr.A.R.L.Sundaresan, Senior Counsel appearing for the petitioner, Mr.M.R.Gokul Krishnan, Government Advocate appearing for the respondents 1 & 2, and Mr.R.M.D.Nazarullah, learned counsel appearing for the respondents 3 to 115..

7. The petitioner is the Chairman cum Director of the Company i.e. M/s.Shri Lakshmi Gayathri Engineering Works Limited. It was closed down on 28.03.1998. Due to non payment of salaries, the respondents 3 to 115 approached the Labour Court and filed computation petitions. All the petitions were allowed and even then, the Company did not pay the salaries as awarded by the Labour Court. The respondents 3 to 115 were constrained to approach the Government to issue recovery certificate to the first respondent under Section 33 (c) (i) of the Industrial Disputes Act, 1947 for recovering the arrears of wages from the management as computed by the Labour Court under Section 33 (c) (ii) of the Industrial Disputes Act, 1947. The Government of Tamilnadu had issued three recovery certificates vide GO.D.No.84 dated 07.02.2007, G.O.D.No.521 dated 10.07.2007 and G.O.D.No.554 dated 19.07.2007 thereby directed the first respondent to recover the amount computed by the Labour Court in their favour. Therefore, the respondents 1 and 2 had initiated the proceedings under the Revenue Recovery Act to attach the subject property. Though the said properties were purchased by the petitioner on his individual capacity, he was the Managing Director of the said property and after order passed by the Government dated 07.02.2007, the petitioner has settled the subject property in favour of his daughter one, Gayathri after knowing the fact that the respondents 1 and 2 have initiated proceedings under the



Revenue Recovery Act, his daughter filed writ petition in WP.No.4214 of 2009 and this Court dismissed the writ petition by order dated 10.12.2009 and this Court observed as follows:

9. In the present case, the first order of the Government is dated 07.02.2007 and the settlement deed is came to be signed only on 04.04.2007. Therefore, the judgment relied on by the learned counsel is not applicable to the facts of the present case.

10. Further unless basic orders of the Government ordering revenue recovery are not under challenge the consequential orders alone cannot be attacked.

11. The impleaded respondents, who are the affected workmen had also filed an affidavit by one K.Vijayachandran, who has been impleaded as the fourth respondent. It is stated by him that the workmen had moved the Labour Court under Section 33 C (2), claiming amounts due to the illegal closure made by M/s.Sri Lakshmi Gayathri Engineering Works Ltd., as per Section 25(o) of the Industrial Disputes Act, 1947. Their claim petitions in CP.Nos.3 to 109 / 2006, 206/2003 to 215/2003 and 332/2003, CP.Nos.370/2006 to 372/2006 were ordered by the Labour Court, Coimbatore. In all these cases, the management was a party. Only when the amounts were not paid, they took recourse to the revenue recovery proceedings. It is also stated that the company was closed as early as on 28.03.1998 and after a lapse of 11 years, the employees have not received one paise from their employer.

12. In such circumstances, the attempt made by the petitioner, to scuttle the revenue recovery proceedings with untenable contentions is not permissible. Hence, writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Aggrieved by the same, she also preferred writ appeal in WA.No.624 of 2014 and the Hon'ble Division Bench of this Court also dismissed the same by order dated 23.09.2010 and held as follows:

The short point that falls for consideration - as to whether the property in question was a self acquired property or family property or acquired by the petitioner's father in the capacity of Director



WEB COPY

of the Company, cannot be gone into by this Court particularly when earlier Government orders were not challenged by the petitioner. Moreover, the property was transferred after the Government Orders were issued. Taking into consideration all these facts, we do not find any reason to interfere with the judgment passed by the learned single Judge. Consequently, the Writ Appeal fails and it is dismissed. No costs. Connected miscellaneous petition is closed.

8. Thus, it is clear that only to avoid the revenue recovery proceedings, the petitioner settled the subject property in favour of his daughter by the settlement deed dated 04.04.2007. Therefore, the second respondent now issued demand notice to the petitioner as contemplated under Section 27 of the Revenue Recovery Act.

9. The Senior Counsel appearing for the petitioner raised the ground that the respondents 1 and 2 failed to follow the procedure under Sections 25 and 26 of the Revenue Recovery Act.

10. On perusal of the records, revealed that the Government have passed order on 07.02.2007, 10.07.2007 and 19.07.2007 thereby directed the respondents 1 and 2 to recover the award amount under the Revenue Recovery Act. After knowing the said Government Order, the petitioner herein cleverly settled the subject property in favour of his daughter by settlement deed dated 04.04.2007. Therefore, he was fully aware of the Government order and the recovery proceedings initiated by the respondents 1 and 2 herein. That apart, on 05.02.2009, the second respondent visited the property and issued notice to one, Singaraj who was alleged to be Manager of the said subject property. He refused to receive the said notice and as such it was affixed on the subject property. On the next day, the said person approached the second respondent for collecting all the details of the proceedings. Immediately, the writ petition in WP.No.4214 of 2009 was filed by this daughter. Therefore, now the petitioner cannot raise the ground that the first and second respondents did not follow the procedure as contemplated under Sections 25 and 26 of the Revenue Recovery Act. Further, except the subject property, there are no other property and as such the first and second respondents have rightly proceeded to attach the subject property now stand in the name of the petitioner's daughter. Now his daughter has challenged the revenue recovery proceedings and failed before this Court and also upto the Hon'ble Supreme Court of India.

11. In view of the above, this Court finds no merits in this writ petition and the same is liable to be dismissed. However, the learned Senior Counsel submitted that out of 324 employees,



WEB COPY

Company have already settled the entire dues in respect of 161 employees and in respect of remaining 163 employees, steps are being taken by the Company to settle their dues. He seeks further time to settle the entire amount and till then, the recovery proceedings may be stayed.

12. It is seen that the Company was closed on 28.03.1998 and the Labour Court passed award on 31.08.2009. Therefore, the poor employees i.e. the respondents 3 to 115 are suffering for the past two decades. Considering the same, the petitioner is directed to settle the entire dues to the respondents 3 to 115 within a period of three months from today. Till then, the respondents 1 and 2 are refrained from proceeding under the Revenue Recovery Act i.e. on or before 31.12.2021. If the petitioner fails to settle the entire dues to the respondents 3 to 115 on or before 31.12.2021, the respondents 1 and 2 are directed to initiate further proceedings to attach the subject property belong to the petitioner in the manner known to law.

13. With the above directions, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

lok
To

1. The District Collector,
Coimbatore District,
Collectorate Compound,
Coimbatore

2. The Tahsildar,
Mettupalayam Taluk,
Mettupalayam

+1cc to Mr.P.Valliappan, Advocate, S.R.No.51139
+1cc to Mr.KV. Shanmuganathan, Advocate, S.R.No.51134
+1cc to the Government Pleader, S.R.No.51246

W.P.No.23754 of 2013

AJS(CO)
CT 01/12/2021