BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.09.2021**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.17344 of 2021
and
W.M.P.(MD)No.14226 of 2021

Raja ... Petitioner

-Vs-

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Home (Police-XIX),
St.George Fort,
Chennai.

2.The District Collector,
Kanyakumari District,
Nagercoil.

3.The District Revenue Officer,
Kanyakumari District,
Nagercoil.

4.The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.

5.The Inspector of Police,
Economic Offence Wing-II,
Kanyakumari District,
Nagercoil.

6.The Tahsildar
Killiyoor Taluk,
Kanyakumari District.

7.The Village Administrative Officer,
Methukummal Village,
Chathencode & Post - 629 153,
Killiyoor Taluk,
Kanyakumari District. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 2 to 6 to receive the land tax from the petitioner in respect of 20 cents which belongs to the petitioner in R.S.No.585/4 of Methukummal Village, Vilavancode Taluk, (Now Killiyoor Taluk), Kanyakumar District, on the basis of the petitioner's representation dated 23.08.2021.

For Petitioner : Mr.G.Ramanathan

For Respondent : Mr.R.Sureshkumar
Government Advocate

O R D E R

Prayer sought for herein is for a Writ of Mandamus, directing the respondents 2 to 6 to receive the land tax from the petitioner in respect of 20 cents which belongs to the petitioner in R.S.No.585/4 of Methukummal Village, Vilavancode Taluk, (Now Killiyoor Taluk), Kanyakumar District, on the basis of the petitioner's representation dated 23.08.2021.

2.That the petitioner purchases 20 cents of land at S.No.585/4 at Methukkummal Village at Killiyor Taluk, Kanyakumari District, by a registered sale deed, dated 13.06.2005 from the vendor.

3.After purchasing the property, it is the claim of the petitioner that, regularly the petitioner had been paying land tax, which was also collected by the seventh respondent.

4.However, all of a sudden, the seventh respondent stopped collecting the land tax from the petitioner for the said land and when this was questioned, the petitioner came to know that a portion of the property in the said survey number, that is, R.S.No.585/4 was attached related to a Financial Company's case and in this regard, a Government Order has been issued by the State Government in G.O.Ms.No.1848, Home (Police-XIX) Department, dated 17.12.2007. Along with the G.O., a schedule has been given under which five items, that is, five properties have been attached wherein, Sl.No.5 relates to S.No.585/4, where the property in the same survey number, to the extent of 50 cents, belongs to one Baskaran, S/o.Chinnakannu, was attached.

5.Because of the said attachment made in the said survey number, the seventh respondent had refused to receive the land tax from the petitioner on the ground that, unless a clarification is received from the Government that the land belongs to the petitioner in the same survey number has not been attached or exempted, such kind of land tax cannot be collected from the petitioner.

6.Aggrieved over the said stand taken by the seventh respondent, the petitioner, though made a representation to the respondents in February, 2021 and July, 2021 and lastly on 23.08.2021, those representations had not been considered, therefore, the petitioner has approached this Court by filing the present writ petition with the aforesaid prayer.

7.Heard Mr.G.Ramanathan, learned counsel appearing for the petitioner, who, after reiterating the aforesaid facts, would contend that, the petitioner since has purchased only 20 cents out of the total extent of more than two acres in the same survey number, that is, R.S.No.585/4 and that 20 cents is not related to the 50 cents belongs to the said Baskaran, which property alone was attached through the said G.O. Therefore, absolutely, there was no connection whatsoever on the land belonged to the petitioner with regard to the said attachment, hence, there could be no further impediment for the respondents, especially, the revenue Department represented by the seventh respondent, who is the authority to collect the land tax from the petitioner, from collecting such tax. Therefore, the learned counsel seeks indulgence of this Court to issue a suitable direction to the seventh respondent to collect the land tax from the petitioner.

8.Per contra, Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents has relied upon the written instructions received from the sixth respondent, Tahsildar, dated 23.07.2021, where, the sixth respondent has stated the following:

> “It is to inform that one Tr.Raja has filed a writ petition in WP(MD)No.17344/2021 before the Madurai Bench of Madras High Court for directing the respondents 2 to 6 to receive the land tax from the petitioner in respect of 20 cents which belongs to the petitioner comprised in R.S.No.585/4 of Methukummal Village, Vilavancode Taluk, (Now Killiyoor Taluk), Kanyakumari District.
>
> Actually the 7th respondent i.e., the Village Administrative Officer, Methukummal is the Competent Authority to receive tax. As a finance, viz., Popular Finance defaulted in payment of money to the depositors, the Economic Offences Wing, Nagercoil has booked cases under the Tamilnadu Protection of Interest of Deposits Act. Accordingly, the property of the popular finance comprised in R.S.No.585/4 of Methukummal village was attached by the Government.

As the entire land comprised in R.S.No.585/4 was under attachment, the 7th respondent has not received tax for the above property. If the petitioner owns some extent in the above property, he has to produce necessary representation to the 3rd respondent, I.e., the District Revenue Officer for sending proposal to the Government to exempt the extent owns by him from attachment. This is for kind information. Xxx Tahsildar, Killiyoor."

9.By relying upon this instructions, the learned Government Advocate, would submit that the land belongs to the petitioner, since comes under R.S.No.585/4 and the said survey number has been attached as per the Government Order referred to above, it is for the petitioner to make representation to the third respondent, District Revenue Officer, who in turn, would write to the Government to get exemption of the petitioner's land from the purview of the attachment and then only, the seventh respondent can be directed to collect the land tax.

10.I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

11. Insofar as the stand taken by the sixth respondent on behalf of the revenue Department, that the petitioner shall approach the third respondent, who in turn, will forward the request of the petitioner to the Government to give exemption of the petitioner's land from the purview of the attachment is concerned, this Court is not impressed. The reason being that, there is a large extent of land of more than two acres in the same survey number, that is, R.S.No.585/4, out of which, the petitioner purchased only 20 cents from erstwhile owner, who is not the said Baskaran, and therefore, insofar as the property belongs to one Baskaran in the same survey number to the extent of 50 cents is concerned, that has no connection whatsoever with the property of 20 cents in the same survey number belongs to the petitioner.

12. Therefore, at no point of time, according to the records available before this Court, the 20 cents land belongs to the petitioner in the same survey number had been in attachment and or in any other encumbrance in the manner known to law.

13. When that being so, relegating the petitioner to the third respondent, who in turn, would be expected to forward the same to the Government for getting exemption is an unwarranted exercise, therefore, that kind of exercise cannot be suggested as has been stated in the instructions given by the sixth respondent, therefore, this Court is inclined to dispose of this writ petition with the following orders:

> "that there shall be a direction to the sixth respondent/Tahsildar to issue a notice to the petitioner as well as the Village Administrative Officer concerned, that is, the seventh respondent and conduct an enquiry as to the ownership of the petitioner on the strength of the sale deed of the petitioner, dated 13.06.2005 as well as the joint patta issued in this regard, dated 08.07.2021 and any other revenue records available with the office of the sixth respondent, and accordingly, pass an order giving direction to the seventh respondent to collect the land tax from the petitioner. The needful as indicated above shall be undertaken by the sixth respondent within a period of six weeks from the date of receipt of a copy of this order."

14. The petitioner is also directed to forward the copy of his representations, dated, 09.07.2021 and 23.08.2021 along with a copy of this order to the sixth respondent, within one week from the date of receipt of a copy of this order, and on receipt of the same, the needful as indicated above shall be undertaken by the sixth respondent.

15. Accordingly, this writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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 Secretary,
   Government of Tamil Nadu,
   Home (Police-XIX),
   St.George Fort,
   Chennai.

2. The District Collector,
   Kanyakumari District,
   Nagercoil.

3. The District Revenue Officer,
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   Methukummal Village,
   Chathencode & Post - 629 153,
   Killiyoor Taluk,
   Kanyakumari District.

+1 CC to M/s.G.RAMANATHAN, Advocate (SR-30400[F] dated 27/09/2021)

+1 CC to M/s.SPL.GP (SR-30331[F] dated 27/09/2021)

W.P.(MD)No.17344 of 2021
Dated:
24.09.2021

MGJ/JC(01.11.2021) 6P 10C