IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.NO.17923 OF 2013
&
M.P.NOS.1, 2 OF 2013

Sri Nalli Kuppuswami Chetti
... Petitioner

Vs.

The Tahsildar
Mambalam- Guindy Taluk
Chennai-600 078
... Respondent

PRAYER:

The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, caling for the records of the respondent relating to the distraint order dated 24.06.2013 issued by the respondent and quash the same.

For Petitioner : Mr.K.Harisankar
For Respondent : Mr.T.Venkatesh Kumar , Spl.Govt.Pleader

O R D E R

Petitioner is carrying on wholesale and retail trading in cloth and garments for over 60 years in the name and style Nalli Chinnasami Chetty silks at No.9, Nageswaran Road, T.Nagar, Chennai-600 017.

2. The above property was purchased by his father late C.Narayanaswami Chetty under sale deed dated 03.08.1950, bearing regisration No.536/1950, registered at the office of Sub Registrar Office of Thyagarayanagar. After the demise of the petitioner's father on 19.08.1953, the petitioner and his mother succeeded to the property and after the demise of his mother on 06.05.1995, the petitioner has been enjoying the property as his own. All the revenue records stand in his name. While so, an

impugned revenue recovery proceedings came to be issued on 24.06.2013, which he challenges in the present writ petition.

3. The respondent would contend that the petitioner happened to be the son in law of one S.R.G.Ranganathan, Proprietor of M/s. Nalli Starch and Glucose Industries Limited, furnishing the address as No.9, Nageswararao road, T.Nagar, Chennai-600 017 as his company address. Due to the default committed by him the Andhra Pradesh Industrial Development Corporation Limited, Hyderabad to the tune of Rupees Three Crores, Twenty lakhs (Rs.3,20,00,000/-) a letter was addressed by them to the District Collector of Chennai to collect the amount from the guarantor/legal heir of the defaulter S.R.G.Ranganathan under the Revenue Recovery Act. Accordingly, the District Collector addressed the respondent to collect it from the legal heir Lakshmi Ammal wife of S.R.G.Ranganathan, whose address was furnished as No.9, Nageswararao road, T.Nagar, Chennai-600 017. Since the wife of S.R.G.Ranganathan did not settle the dues, they issued letters to the petitioner's wife to recover it from her. The petitioner wife by a letter dated 26.06.2013, submitted that the defaulter S.R.G.Ranganathan expired on 27.12.1995 and his wife Lakshmi Ammal expired on 05.08.2011 and that she was not liable for any dues as the property belongs to Nalli Kuppusamy Chetty, who is the petitioner herein and to withdraw the Distraint order.

4. According to the respondent, a sum of Rupees Three Crores Twenty laksh (Rs.3,20,00,000/-) claimed by Andhra Pradesh Industrial Development Corporation Limited, Hyderabad is due to them from the parents of the petitioner's wife. The Revenue Inspector who conducted the enquiry reported that Tmt. Alamelu Ammal, T.N.Ramanathan and Viswanathan are the legal heirs of S.R.G.Ranganathan and his wife Lakshmi Ammal and they were reported to have inherited the property at No.20, Gopalakrishna road, Parthasarathypuram, T.Nagar, Chennai-600 017 and as per Hindu Succession Act, 2005, they are liable to pay out of their parents property inherited by them. Though they are not liable to pay the dues from their own income or savings. Since the said M/s. Nalli Starch and Glucose Industries Limited reported to have been functioning at No.9, Nageswararao road, T.Nagar, a notice was issued to them. Since the defaulter is the father in law of the petitioner herein and that his wife Alamelu Ammal is a legal heir of the defaulter, she is also entitled to a share in the property left by her parents, she is liable to pay the amount. The writ petition is bad for non joinder of parties.

5. Heard the submissions.

6. It is noted that the originally the District Collector and District Magistrate, East Godavari, Kakinada by letter dated

14.06.2008 addressed the District Collector, Chennai to collect the amount from legal heir of the defaulter S.R.G.Ranganathan under Revenue Recovery Act, 1864. In her reply dated 26.06.2013, the daughter of the defaulter had informed the respondent that the said S.R.G.Ranganathan expired on 27.12.1995 and his wife expired on 05.08.2011. Once it is informed that the defaulter and his wife were no more, the respondent would ought to have informed the District Collector of East Godavari District the fact that the defaulter is no more.

7. Even assuming that a request was made by the District Collector to recover it from legal heirs, details of the legal heirs must have been provided by the District Collector, East Godavari District, Andhra Pradesh himself. The respondent has no business to probe into the legal heirship of so called defaulter S.R.G.Ranganathan.

8. It is stated by the petitioner that the property was purchased by his father by way of register sale deed dated 03.08.1950 and inherited by him after the demise of his parents. In that event, the Revenue Recovery proceedings ought not to have been initiated against the petitioner's property. Only because a defaulter furnishes an address, it will not automatically become his property. The respondent must enquire into the ownership of the building then only he can proceed. Further, it is well settled that for invoking the Revenue Recovery proceedings, there shall be an inbuilt provision in the Act giving power to recover it through Revenue Recovery Act or there shall be an adjudication or determination of liability on the part of the particular defaulter to pay the same. In the present case, there are no material to show that there was adjudication resulting in initiating the Revenue Recovery proceedings. Even assuming that the Andhra Pradesh Industrial Development Corporation Act provides for Revenue Recovery then there shall be a specific order from the District Collector to that effect. Only because he has requested the respondent to recover it from the legal heirs, it is not incumbent upon the respondent to probe into the Hindu Succession Act and that the liability to the legal heirs. Even if it is assumed to be correct the respondent ought to have restricted himself from demanding the money from the legal heirs and not from an independent legal entity. The petitioner is an independent legal entity and that he has submitted that it is an independent property of his family and the defaulter has nothing to do with the recovery. Only because he married the daughter of the defaulter , it is not open to the respondent to recover the money from the petitioner's property. The over enthusiastic act of the respondent is beyond his power thereby ultravires.

9. Revenue Recovery proceedings as such is not maintainable in law as well as on fact. The individual property of the petitioner cannot be attached for the default committed by a stranger. Therefore, the Revenue Recovery proceedings stands quashed.



Writ petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Tahsildar
Mambalam- Guindy Taluk
Chennai-600 078.

+2ccs to Mr.K.Harisankar, Advocate, S.R.No.27566
+1cc to the Government Pleader, S.R.No.28016

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GMR(CO)
PM/24/05/2022