IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.10104 of 2022

K.Mageswari ...Petitioner

Vs.

1. The Commercial Tax Officer (Main),
Tindivanam-604 001.

2. The Sub-Registrar,
No.11, NGO Colony,
Avarappaakkam Village,
Tindivanam Taluk, Viluppuram-604 002.

3. G.Sivakumar
Managing Partner,
Tvl. Sabari Steel
Brammadesam, Tindivanam-604 301. ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent to consider and pass order on the petitioner's representation dated 23.02.2022 and with stipulated time may be fixed by this Hon'ble Court.

For Petitioner : Mr.Gnanasekar

For Respondents : Mr.Yogesh Kannadasan,
Special Government Pleader, for R1 & R2.

O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus to direct the 2nd respondent to consider the petitioner's representation dated 23.02.2022 and pass orders on the same.

2. Learned Special Government Pleader takes notice on behalf of the 1st and 2nd respondents. In view of the consent expressed by the learned counsel on either side, this petition is taken up for final disposal.

3. Since, no adverse order is being passed as against the private respondent, notice to the private respondent is dispensed with.

4. The case of the petitioner is that, she is the owner of the property comprised in Survey Nos.115/12, 115/11, 115/10, 115/9 & 17/1, measuring an extent of 58 cents situated at Brammadesam Village and the said property is an ancestral property of her husband and the same was owned by her by virtue of Settlement deed executed by her husband in her favour. Whileso, the 3rd respondent approached the petitioner and requested her to

be a guarantor for him, as required by the 1st respondent for the purpose of registering his business under TNVAT Act and believing the sugar coated words of the 3rd respondent, the petitioner signed on a form for completion of guarantee formality. While such being the case, the 1st respondent has taken steps to attach the subject property for dues of Rs.57,95,641/- and issued Distraint order dated 14.02.2019 under Section 8 of the Tamil Nadu Revenue Recovery Act (in short 'Act') and also a demand under Section 25 of the said Act. Immediately thereafter, the petitioner approached the 1st respondent and came to know that assessment demand was made against the 3rd respondent. Therefore, the petitioner filed a Writ petition before this Court in W.P.No.7132 of 2019, challenging the distraint order dated 14.02.2019 in Form No.1 and this Court, vide order dated 17.12.2021, quashed the distraint order and partly allowed the petition and upheld the distraint order only for a sum of Rs.1,00,000/-. Pursuant to the order of this Court, the petitioner made a representation dated 23.02.2022 before the 1st respondent and sent a copy of the same to the 2nd respondent, requesting to remove the encumbrance made, by permitting the petitioner to pay only a sum of Rs.1,00,000/- as ordered by this Court. However, till date, the official respondents have not passed any revised order as directed by this

Court. Hence, this Writ petition.

5. Though very many grounds have been raised, learned counsel for the petitioner submitted that it would suffice, if this Court issues direction to the 1st and 2nd respondents to pass revised distraint order as directed by this Court, vide order dated 17.12.2021 made in W.P.No.7132 of 2019 and permit the petitioner to pay only a sum of Rs.1,00,000/- and a consequential direction to remove the encumbrance made in the subject property.

6. Learned Special Government Pleader appearing on behalf of the 1st and 2nd respondents has no serious objection for said order being passed and he fairly conceded that the order of this Court dated 17.12.2021 will be complied with by the 1st respondent as expeditiously as possible.

7. Heard the arguments advanced by the learned counsel on either side and perused the materials available on record.

8. Facts in the present case are not in dispute. In view of the limited relief sought for by the petitioner, this Court without expressing any opinion

on the merits of the case, issues direction to the 1st respondent to comply with the order of the Court dated 17.12.2021, by passing the revised distraint order only for a sum of Rs.1,00,000/- and consequently, consider the petitioner's representation in terms of the order of this Court and accept the sum of Rs.1,00,000/- from the petitioner and thereafter, proceed with the 2nd respondent for removal of encumbrance in the petitioner's property, after the receipt of the said amount from the petitioner and the said exercise shall be completed by the 1st & 2nd respondents within a period of twelve weeks from the date of receipt of a copy of this order.

9. This writ petition is accordingly disposed of. No costs.

07.06.2022

skt

Speaking Order : Yes/ No
Index : Yes/ No

To

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   Tindivanam-604 001.

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M.DHANDAPANI,J.

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