BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.2802 of 2012
and
M.P(MD).Nos.2 and 3 of 2012

1.S.Krithika Priya

2.Minor S.Adithya Ram ... Petitioners

Vs.

1.The Assistant Commissioner of Commercial Taxes,
Pudukottai.

2.The Commercial Tax Officer-I,
Pudukottai.

3.M/s Hipson Consolidates,
II Floor, TELC Diamond Jubilee Building Cantonment,
Trichy Town,
Trichy. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent herein in the auction notification, dated 15.02.2012 in respect of property comprised in Survey No.213/4 of Mathur Village, Pudukottai, published in Dina Thanthi issue, dated 25.02.2012 and quash the same and consequently forbear the respondents 1 and 2 herein from, in any manner, bring the property to auction sale comprised in Survey No. 213/4 of Mathur Village, Pudukottai District for sale of recovery of arrears payable by the third respondent herein.

For Petitioner : M/s.AL.Gandhimathi
For R1 & R2 : Mr.M.Ramesh
Government Advocate

ORDER

This writ petition has been filed challenging the auction notification of the first respondent, dated 15.02.2012 in respect of property comprised in Survey No.213/4 of Mathur Village, Pudukottai, published in Dina Thanthi issue, dated 25.02.2012 and consequently forbear the respondents 1 and 2 herein from, in any manner, bringing the property to auction sale comprised in Survey No.213/4 of Mathur Village, Pudukottai District for sale of recovery of arrears payable by the third respondent.

2. It is submitted by the learned Government Advocate for the respondents 1 and 2 that the auction notification may not survive inasmuch as the entire arrears have been paid. Admittedly, there are no arrears due. In this regard, the following portion of the counter affidavit would make it clear. The same is extracted as under:

> *"6. I submit that both above dealers viz. M/s. Hipson Consolidates, Trichy (third respondent) and Tvl. United Needless (P) Limited, are not in arrears of tax as on 22.12.2014.*
>
> *7. I submit that Assessing Authority, Pudukkottai- I would have issued an advertisement through newspaper on 25.02.2012 attaching the property of 20 cents in Survey No.213/4 for the arrears of tax etc., payable by the third respondent as per the revision assessment order passed on 31.12.2001 without taking into the fact that the property now attached had been sold to Tvl.United Needless (P) Limited, Mathur on 29.09.1993 and*

subsequently sold to the petitioners on 10.05.2010 registered as Document No.2068 of 2010 in the office of the Sub-Registrar, Kulathur. The attachment would have been omitted to be with drawn even after the realisation of arrears.

8. I submit that from the verification of assessment records, etc., it is found that the third respondent M/s.Hipson Consolidates, Trichy and Tvl.United Needless, Mathur are not in arrears of tax as on date and the attachment made on 23.02.2012 seems to be infructuous and not maintainable."

3. The certificate of settlement of arrears, dated 22.12.2014 was also submitted by the learned Government Advocate for the respondents 1 and 2.

4. In view of the same, the auction notification is liable to be set aside. Hence, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

05.09.2022

Index : Yes / No
Internet : Yes/ No
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To
1.The Assistant Commissioner of Commercial Taxes,
Pudukottai.

2.The Commercial Tax Officer-I,
Pudukottai.

MOHAMMED SHAFFIQ, J.

sn

W.P(MD).No.2802 of 2012

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