BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.16654 of 2022
and
W.M.P(MD).No.12078, 12079 and 12083 of 2022

S.T.Kalaimani ... Petitioner

Vs.

1.The Joint Commissioner of Commercial Taxes,
Madurai Circle,
Madurai.

2.The Assistant Commissioner of Commercial Taxes,
Sivagangai District.

3.The Commercial Tax Officer,
Commercial Tax Office,
50/52, Jawahar Street,
Karaikudi District.

4.The Joint Sub-Register,
Officer of the Sub-Register,
Karaikudi,
Sivagangai District.

5.C.T.Subramaniam ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, calling for the records pertaining to the impugned order of the third respondent in Na.Ka.No.A3/77/2019, dated 20.10.2021.

For Petitioner : Mr.S.Ramsundarvijayraj
For R1 to R4 : Mr.P.Subbaraj
Special Government Pleader

ORDER

The petitioner challenged the notice issued by the third respondent in Na.Ka.No.A3/77/2019, dated 20.10.2021. The grievance of the petitioner is that the petitioner purchased the property along with his family members and constructed a building in TS.No.7 Part TS.No.373/3, TS.No.373/4, TS.No. 373/5 in Ward 10 of Block 21 of Greens Road, Sekkalakottai, Karaikudi Town, Sivagangai District to the extent of 9075 square feet by Document Nos. 76/2021 and 77/2021, dated 11.01.2021. The said property purchased from one C.T.Subramaniam, the fifth respondent.

2. During the time of purchase as verified through the encumbrance certificate, there is no encumbrance to the said properties. Thereafter, the petitioner developed the property by putting up a building to the tune of Rs.2.4 crores. This being so, the third respondent issued notice, dated 20.10.2021, in which it is stated that the property pertaining to Document Nos.76/2021 and 77/2021, attached by the fourth respondent under RR Act and the same reflected in the encumbrance certificate. On the same day, C.T.Subramaniam executed a settlement deed in favour of his wife and his daughter in Document No.78/2021. This property is valid to the tune of

Rs.87,50,000/-. The third respondent, the tax due is Rs.44,56,762/-. The third respondent if at all needs to attach, to take any attachment under RR Act, it would be appropriate that property in Document No.78/2021, which settled in favour of his family members can be attached. On the contrary, the petitioner's property attached. The petitioner sent a representation on 10.11.2021 along with supporting documents, the same not considered.

3. The learned Special Government Pleader for the respondents 1 to 3 submits that the impugned order is only a notice directing the petitioner to appear before the respondents within 15 days and to give his explanation and objections, if any. The property in Document No.78/2021 settled by C.T.Subramaniam in favour of his wife and his daughter, is also taken into consideration for attachment. If the petitioner is able to satisfy with supporting documents, the same would be considered. As far the third respondent is concerned, his only concern is to recover the Government dues.

4. The learned counsel for the petitioner at this stage submits that the petitioner shall appear before the respondents on 10.08.2022 along with the necessary documents and give explanation. The third respondent to give him a personal hearing and to consider the same.

5. The learned Special Government Pleader for the respondents 1 to 3 submits that personal hearing will be given to the petitioner and thereafter, appropriate orders will be passed.

6. In view of the same, the petitioner is directed to appear before the third respondent on 10.08.2022 at about 11.00 a.m. along with the necessary documents. The third respondent is directed to consider the petitioner's explanation and objections and thereafter pass appropriate order. The third respondent is also directed to call C.T.Subramaniam, his wife and his daughter for an enquiry, who are pertain to Document No.78/2021, on the same day. The entire process shall be completed within a period of two weeks from the date of receipt of copy of this order.

7. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

01.08.2022

Index : Yes / No
Internet : Yes/ No
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To

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M.NIRMAL KUMAR, J.

sn

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