



W.P. No.1691 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 24.01.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.1691 of 2023

K.Gopalasamy

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Petitioner

vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam, Chennai.

2.The Sub-registrar,
Perundurai,
Erode.

3.State Tax Officer (Intelligence) (FAC),
Collection and Arrear,
Erode.

4.Joint Commissioner of Commercial Tax,
Dr.Balasundaram Road,
ATT Colony, Gopalapuram,
Pappanaickenpalayam,
Coimbatore.

5.SS Traders,
126/A, Sengodampalayam,
Thindal, Erode,
Tamil Nadu – 638 012.

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Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India
to issue a Writ of Mandamus, directing the fourth respondent to consider



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the representation of the petitioner dated 06.12.2022 sent to the respondents and remove the entry/charge created by the Commercial Tax Department on the property in Survey No.25/3 admeasuring 1841 sq.ft. in respect of a sum of Rs.13,03,32,028/- (Rupees Thirteen Crores Three Lakhs Thirty Two Thousand and Twenty Eight only) in the Encumbrance Certificate and registration records of the 1st and 2nd respondents.

For petitioner : Mr.Naveen Kumar Murthi

For respondents : Mr.S.Ravikumar,
Special Government Pleader
for R1 and R2

Mr.V.Prasanth Kiran,
Government Advocate
for R3 and R4

ORDER

By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

2.This writ petition has been filed seeking for a direction to the fourth respondent to consider the representation of the petitioner dated 06.12.2022 sent to the respondents and remove the entry/charge created by the Commercial Tax Department on the property in Survey No.25/3 admeasuring 1841 sq.ft. in respect of a sum of Rs.13,03,32,028/- (Rupees Thirteen Crores Three Lakhs Thirty Two Thousand and Twenty



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Eight only) in the Encumbrance Certificate and registration records of the 1st and 2nd respondents.

3.The petitioner seeks for removal of the entry/charge created by the Commercial Department on the property situated in Survey Nos.25/1, 25/2, 25/3, 25/5, Nanjanapuram Village, Erode District, admeasuring to an extent of 1841 sq.ft. The petitioner claims that he purchased the property from one K.Gunasekaran under a registered Sale Deed dated 17.09.2019. According to the petitioner, the fourth respondent has arbitrarily and illegally created the charge in respect of the aforesaid property with the registration department on the ground that S.S.Traders, the fifth respondent herein is liable to pay tax amounting to Rs.13,03,32,028/- (Rupees Thirteen Crores Three Lakhs Thirty Two Thousand and Twenty Eight only). According to the petitioner, he has no connection with the fifth respondent, namely, S.S.Traders, which is a sole proprietorship concern. Therefore, creating a charge over his property is arbitrary and illegal. The petitioner also claims that the charge was created by the fourth respondent 2½ years after the petitioner had purchased the property. The petitioner has given a representation on 06.12.2022 to the fourth respondent requesting him to remove the entry/



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charge created by the Commercial Tax Department in respect of the aforementioned property. Since the representation has not been considered till date, he has filed this writ petition.

4.Heard Mr.Naveen Kumar Murthi, learned counsel for the petitioner, Mr.S.Ravikumar, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 and 2 and Mr.V.Prasanth Kiran, learned Government Advocate, who accepts notice on behalf of the respondents 3 and 4.

5.Since no adverse orders are passed against the fifth respondent, notice to the fifth respondent is dispensed with by this Court.

6.No prejudice would be caused to the respondents if the petitioner's representation as stated supra is considered, on merits and in accordance with law, within a time frame to be fixed by this Court.

7.This Court is not expressing any opinion on the merits of the petitioner's representation as it is for the official respondents to consider the same, on merits.



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8.For the foregoing reasons, this Court directs the fourth respondent to pass final orders, on merits and in accordance with law on the petitioner's representation dated 06.12.2022 seeking for removal of the entry/charge created by the Commercial Department on the property situated in Survey Nos.25/1, 25/2, 25/3, 25/5, Nanjanapuram Village, Erode District, within a period of eight weeks from the date of receipt of a copy of this order. In case the fourth respondent finds merit in the petitioner's representation and they decide to remove the entry/charge created by the Commercial Tax Department on the above property, the fourth respondent shall intimate the same to the second respondent, so that the encumbrance already created is removed.

9.With the above directions, this writ petition stands disposed of.

No costs.

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Index: Yes/No

vga



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To



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ABDUL QUDDHOSE, J.

vga

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