IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.1006 of 2022

B.Sekar ... Petitioner

Vs

1. The Commissioner of Income Tax – V,
   Ayakar Bhavan,
   121, Nungambakkam High Road,
   Nungambakkam,
   Chennai – 600 034.

2. The Director General of Income Tax (Investigation),
   Income Tax Department,
   108, Nungambakkam High Road,
   Nungambakkam,
   Chennai – 600 034.

3. The Director of Income Tax (Investigation),
   Income Tax Department,
   108, Nungambakkam High Road,
   Nungambakkam,
   Chennai – 600 034.

4. The Deputy Director of Income Tax (Investigation),
   Unit – IV(2) No.46, Mahatma Gandhi Road,
   Nungambakkam,
   Chennai – 600 034. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the fourth respondent to consider and dispose of the representation dated 24.11.2021 and furnish the copy of the panchanama, seizure mahajjar of late.M.Pappammal, the mother of late.S.M.Pandian on the raids that were conducted on various different places from 11.09.1997 to 03.11.1997.

For Petitioner	: Mr.T.N.Murali Moghan
For Respondents	: Mr.A.P.Srinivas Senior Standing Counsel Mr.A.N.R.Jayaprathap Junior Standing Counsel

ORDER

The petitioner claims to be the nephew of late M.Pappammal who had earlier filed a writ petition before this Court in W.P.No.23398 of 2006. The said writ petition was filed by the said Pappammal for the following relief:-

> *"Writ Petition filed under Article 226 of the Constitution of India for the issue of Writ of Mandamus to direct the respondents to return back all the documents seized on 11.09.1997 relating to petitioner son's Estate, including that of the seizure Mahazar (Panchanama) and orders and in case of any legal impediment for the same, to furnish copies of such seized documents after permitting the petitioner's counsel to peruse the seized records"*

2. The writ petition was dismissed by the Court vide order dated 24.07.2006 with the following observations:-

> *"I do not find any reason whatsoever in the petitioner challenging the order of assessment passed for the Estate of the deceased S.M.Pandian. A peculiar prayer for furnishing copies of documents in respect of the property is sought for by the petitioner from the Income Tax Authorities. The reason might be an obvious one that there is some misunderstanding between the petitioner and the wife of the deceased Pandian. For that purpose, a writ petition of this type cannot be entertained. It is for the petitioner to approach the appropriate authority to get copies of documents, as requested by her in this writ petition.*
>
> *2. Mr.Muralikumaran, learned Senior Standing Counsel, taking notice on behalf of the Income Tax Department, assures that a copy of the assessment order which is impugned in this writ petition would be forwarded to the petitioner who is the mother of the deceased S.M.Pandian by Registered Post with Acknowledgment Due.*
>
> *3. Accordingly, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed."*

3. It is the case of the petitioner that despite the aforesaid order, an application being made by late M.Pappammal who died on 16.07.2020 after executing a Registered Will on 22.12.2015, registered as Document No.124 of 2015 on the file of the Sub Registrar, Andipatti in favour of the petitioner, the documents relating to the search conducted between 11.09.1997 and 03.11.1997 were required for proving the contents of the registered Will dated 22.12.2015, the respondent have not furnished the same.

4. It is submitted that the petitioner had sent a representation on 24.11.2021 to the respondents herein which was responded on 29.11.2021, by the Income Tax Officer (Head Quarters) (Investigation). The Deputy Director of Income Tax (Investigation) Unit-4(2), Chennai was directed to guide the petitioner to the concerned Assessing Officer to whom the search materials have been handed over so that the petitioner may approach the concerned Assessing Officer for obtaining necessary documents.

5. It is submitted that although the writ petition that was filed by the petitioner's grand aunt namely M.Pappammal was dismissed on 24.07.2006 in W.P.No.23398 of 2006, while dismissing the writ petition, the Court had made it clear that it was open for the petitioner to approach the Appropriate Authority to get copies of the documents as requested by her in the writ petition.

6. Thus, the document that was called for by the petitioner's grand aunt namely M.Pappammal has not been furnished during her lifetime and now to the petitioner, despite the communication sent to the respondent was on 24.11.2021.

7. On behalf of the respondents, the learned Senior Standing Counsel and the learned Junior Standing Counsel submit that this is the third attempt to get the details of property document of S.M.Pandian, an auditor, son of M.Pappammal, died mysteriously on 04.04.1996.

8. Second attempt was made by the said M.Pappammal by filing W.P.No.23398 of 2006. Now by the petitioner as a legatee under the Will that is said to have been executed by late M.Pappammal on 22.12.2015 has approached this Court.

9. It is submitted that the petitioner has not disclosed any information/document as to how the he was related to the said M.Pappammal or the searched person namely S.M.Pandian who died on 04.04.1996. Therefore, the information that is called for by the petitioner cannot be furnished to the petitioner. Hence, prayed for dismissal of the writ petition.

10. I have considered the arguments advanced by the learned counsel for the petitioner and the Senior Standing Counsel and the learned Junior Standing Counsel for the respondents.

11. It is noticed that while dismissing W.P.No.23398 of 2006 filed by the late M.Pappammal, this Court had given liberty to the said M.Pappammal to approach the Appropriate Authority to get copies of the documents viz., Mahajjar and panchanama.

12. The said M.Pappammal is said to have died on 16.07.2020. There is a registered Will that has been kept along with the typed set of papers to indicate that the deceased M.Pappammal had earlier executed a registered Will in favour of the petitioner on 22.12.2022.

13. According to the petitioner, the deceased S.M.Pandian, also has a son by name Balaji. Therefore, the Department can furnish the documents to the petitioner only after appropriate notice to the legal heir of S.M.Pandian namely Balaji.

14. Letter dated 29.11.2021 of the Income Tax Officer Headquarters (Investigation), Chennai, has also called upon the fourth respondent to guide the petitioner to approach the concern Assessing Officer from whom the petitioner may secure the document.

15. Considering the above, I direct the fourth respondent to inform the petitioner as to the Assessing Circle whether the late S.M.Pandian was assessed and so the petitioner can proceed further.

16. It is made clear that before furnishing any of the documents to the petitioner due notice shall be issued to the legal heir of late S.M.Pandian named Balaji. This exercise shall be carried out by the respondents within a period of four (4) weeks from the date of receipt of a copy of this order.

17. The writ petition stands disposed of with the above observations and directions. No cost.

13.07.2023

Neutral Citation: Yes/No
Index : Yes/No
Speaking/Non-Speaking Order
rgm

To

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C.SARAVANAN, J.

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