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W.P.No.7519 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.7519 of 2021
and
W.M.P.Nos.8037 & 8041 of 2021

P.Lingaraj

.. Petitioner

Vs.

1.The Tax Recovery Officer I,
Office of the Principal Commissioner of Income Tax -I,
Mahathma Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

2.M/s.Vasavi Builders,
No.8 A, Kandasami Street,
Raja Annamalaipuram,
Chennai – 600 028.
Rep. By its Proprietor
P.B.Krishna Prasad.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to the sale notice dated 01.03.2021 published in Tamil Newspaper “Thina Thanthi” on 07.03.2021, pertaining to the property bearing Flat No.A1-103, with plain area measuring 958 sq.ft in Mahilam Project area measuring 958 sq.ft in Mahilam Project, comprised in S.No.67/2, 69/2 and 69/3A1, situated in Zamin Pallavaram Village,



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Tambaram Taluk, Chengalpattu District, quash the same and to issue consequential directions to the 1st respondent to issue notice to the petitioner, hear his objection and consider the same by affording opportunity of being heard and till then desist from dispossessing the petitioner and putting the said property for sale in public auction.

For Petitioner : Mr.J.Muthukumaran

For R1 : Mr.B.RamanaKumar
Senior Standing Counsel

ORDER

The petitioner is challenging the impugned sale notice dated 01.03.2021 and for a consequential direction to the 1st respondent to issue notice to the petitioner, hear his objection and consider the same by affording opportunity of being heard and till then desist from dispossessing the petitioner and putting the said property for sale in public auction.

2.The petitioner claims to be in possession of the property which was sold to the petitioner in lieu of the amount due to the petitioner by 'M/s.Vasavi Housing Infrastructure Limited'. The arrangement between the petitioner and the respondent appears to have been reduced in writing by an agreement dated 18.07.2015, as per which the said 'M/s.Vasavi



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Housing Infrastructure Limited' agreed to allot a flat under construction to the petitioner.

3.It is the case of the petitioner that the petitioner has also filed a suit in O.S.No.464 of 2022 before the District Court at Chengalpattu for specific performance of the said 'M/s.Vasavi Housing Infrastructure Limited' represented by P.B.Krishna Prasad, subsequent to agreement dated 18.07.2015.

4.The petitioner has attempted to stall the auction that was to be taken place on 22.03.2021. The petitioner has no *locus standi* to question the auction of the property based on a private sale agreement dated 18.07.2015. It is open for the petitioner to workout his remedy before the District Court at Chengalpattu in O.S.No.464 of 2022 to recover the amount that has remained unpaid by the said 'M/s.Vasavi Housing Infrastructure Limited' represented by P.B.Krishna Prasad to the petitioner. If the said 'M/s.Vasavi Housing Infrastructure Limited' was in arrears of tax, the properties standing in its name can be attached by the Government to recover the due. It is open to the Income Tax Department to bring the property to sale in accordance with the provisions of the



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Income Tax Rules. Merely because there is a private agreement between the petitioner and the said 'M/s.Vasavi Housing Infrastructure Limited' represented by P.B.Krishna Prasad *ipso facto* would not mean the petitioner to put spokes into recovery proceedings.

5.The Writ Petitions stands dismissed with the above observations. It is open for the petitioner to workout his remedy in accordance with law against the said builder. Consequently, the connected Miscellaneous Petitions are closed. No costs.

11.07.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

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C.SARAVANAN, J.

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