IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-03-2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.23587 of 2017
And
WPMP No.24728 of 2017

R.T.Sreenivasan .. Petitioner

vs.

1.The Tahsildar,
Madukarai,
Coimbatore.

2.The General Manager,
District Industrial Centre,
Palakkad,
Kerala. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling for the records on the file of the first respondent in Na.Ka.No.5135 of 2014 dated 01.08.2017 and quash the same.

For Petitioner : Mr.Niranjan Raja Gopalan for M/s.Madhuvanthy Mathavan.

For Respondent-1 : Mr.S.Ravichandran, Additional Government Pleader.

For Respondent-2 : Mr.G.Prabhu for Mr.E.K.Kumaresan.

ORDER

The notice issued by the first respondent-Tahsildar under the provisions of the Revenue Recovery Act, is sought to be quashed in the present writ petition.

2. The petitioner states that in the year 1995, a Company in the name and style of M/s.Arun Lakshmi Alloys Pvt Ltd., was incorporated under the provisions of the Companies Act, 1956. The Registered Office of

the Company was in Palakkad, Kerala State and the petitioner was the Managing Director and his wife and brother were the Directors.

3. In order to develop the business, loan was obtained from the second respondent-District Industrial Centre in the year 1995. The loan sanctioned was utilised towards development of the business of the Company.

4. The petitioner along with his family members have sold all their shares in the Company to Mr.Rajendra Babu and Associates. Consequently, they resigned as Directors on 17.11.2003. New Directors were inducted in the Company.

5. In this backdrop, the learned counsel for the petitioner reiterated that on 05.11.2003, the petitioner and his family members have sold all their shares in the Company to Mr.Rajendra Babu Associates and the petitioner along with his family members have resigned as Directors

from the Company. Thus the notice issued against the petitioner is untenable.

6. The learned counsel for the petitioner contended that the first respondent-Tahsildar without verifying the records issued notice under the provisions of the Revenue Recovery Act and the resigned Directors are not liable to repay any dues and therefore, the notice impugned is liable to be set aside.

7. The learned counsel appearing on behalf of the second respondent made a submission that the loan was sanctioned by the second respondent admittedly and the writ petitioner during the relevant point of time committed default. Subsequently, the petitioner states that he and his family members have sold all their shares and resigned as Directors from the Company. All these factors were adjudicated and based on the orders, the first respondent-Tahsildar issued recovery proceedings.

8. It is stated in the affidavit filed by the petitioner that the District Collector, Palakkad initiated proceedings under the Revenue Recovery Act in the year 2004. The proceedings were transferred to the Coimbatore on account of the fact that the petitioner was residing there.

9. Relying on the sworn affidavit filed by the writ petitioner, the learned counsel for the second respondent states that the petitioner was aware of the recovery proceedings initiated by the District Collector, Palakkad in the year 2004 and the same was transferred to Coimbatore District on account of the fact that the petitioner was residing there. The petitioner further addressed a letter dated 09.06.2008 to the Tahsildar, Coimbatore stating all the relevant facts. The petitioner has further stated that he was no longer part of the Company and therefore, no action can be taken against him.

10. The scope of adjudication under the provisions of the Revenue Recovery Act is limited. The power of the Tahsildar cannot be

expanded, so as to adjudicate the disputed facts between the parties. Once the adjudications were completed and orders were passed, the Competent Authorities under the Revenue Recovery Act has to initiate proceedings only to recover the money and not to adjudicate the disputed issues between the parties. If at all any dispute exist and the Tahsildar has initiated action under the Revenue Recovery Act, the petitioner has to challenge the original proceedings issued or the orders passed by the Competent Forum or the Authority.

11. In the present case, the petitioner has not even produced the order passed by the Competent Authority or the Forum against which the revenue recovery proceedings are initiated against the writ petitioner by the Tahsildar. In the absence of any such final orders, which is the basis for the revenue recovery proceedings, this Court may not be in a position to appreciate the disputed facts between the parties.

12. The scope of provisions under the Revenue Recovery Act is

limited and the Act is intended only to recover the dues from the persons concerned based on the orders communicated to the Competent Authorities under the Revenue Act.

13. That being the scope of the Act, the petitioner has to take steps to challenge the original proceedings based on which the revenue recovery actions were taken and those particulars are not even produced before this Court.

14. This being the factum, the petitioner has to challenge the original order, which is the basis for initiation of recovery proceedings under the Revenue Recovery Act. Contrarily, he cannot challenge the notice issued by the Authorities under the Revenue Recovery Act, as he is not competent to adjudicate the disputed facts nor he may be aware of all the proceedings initiated and the orders passed in respect of the loan transactions or otherwise.

15. With the abovesaid observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

10-03-2023

Speaking Order/Non-Speaking Order.
Neutral Citation : Yes/No.
Internet : Yes/No.
Index: Yes/No.
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To

1.The Tahsildar,
Madukarai,
Coimbatore.

2.The General Manager,
District Industrial Centre,
Palakkad,
Kerala.

S.M.SUBRAMANIAM, J.

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