BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :28.03.2023

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.3407 of 2016
and
W.M.P.(MD).No.3007 of 2016

P.V.Palanisamy ... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tamil Nadu Urban Land Tax Tribunal
/District Revenue Officer,
Dindigul,
Dindigul District.

3.The Tahsildar,
Dindigul Taluk(West),
Urban Land Tax,
Dindigul District. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records, pertaining to the impugned demand notice dated 02.01.2015, issued by the third respondent and quash the same as illegal and void and thereby directing the third respondent to return back the amount of Rs.2,14,000/-, deposited as half of the total levy amount paid by this petitioner as perthe impugned demand notice within a time frame fixed by this Court

For Petitioner :Mr.F.X.Eugene

For Respondents :Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

The petitioner challenges a demand notice dated 02.01.2015 and seeks refund of a sum of Rs.2,14,000/- deposited by the petitioner earlier.

2. The petitioner states that his father, Velu Pillai, his brother Vaithiya Pillai, Kothai Ammal, Vyapuri and Venkatachalam and the petitioner were jointly carrying on fertilizer business. In relation thereto, they purchased a total extent of 1 acre and 25 ¾ cents of punja lands. A joint patta was issued in the names of the above mentioned six persons under Town Survey Nos.27 and 28.

3. The petitioner states that the above mentioned property was divided into six equal portions as between the above mentioned six persons under partition deed dated 18.06.1990. In spite of such partition, the

petitioner states that the entire extent of 1 acre and 25 ¾ cents is being assessed as a single assessment. Therefore, the petitioner filed an appeal before the Tribunal constituted under Urban Land Tax Act. By order dated 14.08.2012, the petitioner was directed to produce the partition deed and seek sub-division of the property from the Tahsildar, Dindigul.

4. Learned counsel for the petitioner submits that an application for sub division and issuance of separate patta was submitted thereafter, but that no action was taken on such application. Learned counsel contends that the lands owned by the petitioner is a $1/6^{th}$ portion of the total extent of 1 acre and 25 ¾ cents. Upon such partition, he submits that no Urban Land Tax is payable by the petitioner. He further submits that the petitioner cannot be faulted for the failure of the revenue authorities to act on the application for sub division and separate patta.

5. In response, learned Special Government Pleader submits that the assessment of Urban Land Tax is done on the basis of the revenue records. Consequently, until the relevant property is sub-divided and separate pattas are issued, Urban Land Tax would be demanded entire

undivided extent. Learned Special Government Pleader further submits that it is always open to the petitioner to institute appropriate legal proceedings, if his request for sub-division and separate patta is not acted upon by the authorities.

6. The town survey register is on record. This document reflects the names of Velu Pillai, Vaithiya Pillai and Palanisamy as the shareholders of Sri Ganapathy Fertilizers. The entire undivided extent is shown under the respective town survey number. The order dated 14.08.2012 of the first respondent records that the petitioner should produce the partition deed and request for sub division from the jurisdictional Tahsildar. Although learned counsel for the petitioner submits that an application for sub-division and issuance of separate pattas was submitted shortly thereafter, the relevant documents are not before this Court. Besides, the sub-division of the property on the basis of the partition deed and the grant of separate pattas is not the subject of the present writ petition.

7. In light of the fact that the property has admittedly not been sub-divided and separate pattas have not been issued, the issuance of the

impugned demand notice cannot be faulted. The petitioner is also unable to establish as to how such demand is contrary to the provisions of the Tamil Nadu Urban Land Tax Act,1966, including Section 14 thereof.

8. For reasons set out above, W.P.(MD).No.3407 of 2016 is dismissed, by leaving it open to the petitioner to take appropriate action in relation to the application for sub-dividing the relevant property and for issuance of separate patta pursuant thereto. There shall be no order as to costs. Consequently, connected W.M.P.(MD).No.3007 of 2016 is closed.

28.03.2023

NCC :Yes/No
Internet :Yes/No
Index :Yes/No
sbn

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SENTHILKUMAR RAMAMOORTHY, J.

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