



WEB COPY

W.P.No.45546 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

W.P.No.45546 of 2006
and
M.P.No.1 of 2006

A.K.Mutuswamy

.. Petitioner

VS

1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Commercial Tax Department,
Fort St.George, Chennai - 9.

2.The Commercial Tax Officer,
Adyar I Assessment Circle,
Chennai.

3.The Regional Transport Officer,
South Triplicane Unit,
Chennai.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents not to demand entry tax on the passenger car BMW X5 3.0D RHD with chasis no. WBAFB72000 LX22607, Engine No.22406024 of Kalahari Beige Metallic Colour imported by the petitioner.

For Petitioner : Mr.T.V.Lakshmanan

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader

ORDER



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(Order of the Court was made by Dr. ANITA SUMANTH.,J)

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This writ petitioner has, at the time of admission on 27.11.2006, been granted interim injunction as prayed, for upon condition of payment of 25% of the Entry Tax within a period of four weeks from the date of receipt of a copy of that order.

2. Noticing that, we had on 18.09.2024, passed the following order:-

"Mr.Lakshmanan, learned counsel, will provide proof of compliance with the interim directions granted on 27.11.2006.

2. As a final opportunity, list on 25.09.2024 as item no.1."

3. When the matter had come up on 25.09.2024, we are constrained to note that there was no compliance with the directions issued on 18.09.2024 and had passed the following order:-

"There is no proof available on record as to whether the petitioner has complied with the interim directions issued on 27.11.2006 on the strength of which, the petitioner is enjoying interim orders since November, 2006.

2. As a final opportunity, learned counsel for the petitioner was asked to provide proof of compliance with those interim directions and the matter was directed to be listed today.

3. Today, learned counsel is not ready with the proof per our directions dated 18.09.2024 and hence petitioner is put to terms. Petitioner will remit a sum of Rs.5,000/- to Cancer Institute, Adyar, Chennai. Let proof of remittance be produced on the next date of hearing.

4. To be noted that if those interim directions had not been complied with then the writ petition is itself liable to be dismissed in limine.

5. List on 27.09.2024 as item no.1."

4. Today, Mr.T.V.Lakshmanan, learned counsel, appearing for



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the petitioner submitted that he is still unable to obtain proof and has also no instructions to report to this Court.

5. The writ petition is of the year 2006 and the petitioner has been enjoying the benefit of interim injunction from that year. The prayer is for a mandamus directing respondents not to demand Entry Tax on a vehicle that had been imported in 2006.

6. In fact, on merits, the petitioner's case is covered adverse to him by the judgment of the Apex Court in the case of *State of Kerala and others v Fr. William Fernandez etc* [2017 SCC OnLine SC 1291], which decision has been consistently followed by this Court, including in the case of *V.Krishnamurthy v State of Tamil Nadu Rep by its Secretary to Government* [2019 SCC OnLine Mad 8523].

7. For the reasons as aforesaid, this writ petition is dismissed with costs. Interim injunction which is still in force is vacated and the authorities are directed to proceed with the proceedings for assessment forthwith. The direction to the petitioner to remit costs vide order dated 25.09.2024 is reiterated. A copy of this order will be sent to the petitioner's address mentioned in the cause-title for immediate compliance. Connected miscellaneous petition is closed.

[A.S.M., J] [G.A.M., J]
27.09.2024

Index:Yes/No
Neutral Citation:Yes
ssm

To



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