IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-12-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

WP No. 36731 of 2024
and WMP.No.39641 of 2024

Malliga

Petitioner(s)

Vs

1. The District Collector
Namakkal District,
Namakkal.

2.The Revenue Divisional Officer
Office Of Revenue Divisional Officer,
Sendamangalam Taluk,
Namakkal District.

3.The Tahsildar
Sendamangalam Taluk,
Namakkal District.

Respondent(s)

<u>PRAYER</u>

To Call for the entire records pertaining to the impugned notice of attachment issued by the 3rd Respondent in R.No.5607/2023/A3 dated 05.09.2024 and to quash the same.

For Petitioner(s): Mr.S.Senthil

For Respondent(s): Mr.Stalin Abhimanyu, AGP

ORDER

Challenging the order of attachment passed by the first respondent under Tamil Nadu Revenue Recovery Act, attaching the property of the petitioner's husband, the present Writ Petition has been filed.

2. The second respondent has imposed the penalty of Rs.6,32,700/- under Section 36A of the Tamil Nadu Mines and Mineral Concession Rules, 1959 against the petitioner husband for excavating and transporting gravel without permission. The order came to be passed on 24.01.2017. Later, the petitioner's husband also died. Now to enforce the penalty imposed under the Tamil Nadu Mines and Mineral Concession Rules, proceedings have been initiated under the

Tamil Nadu Revenue Recovery Act and the order of attachment came to be passed by the Collector. This petition has been filed to quash the same on the ground that before issuing the order of attachment, service of written demand was not served on the defaulter, which is mandatory as per Section 25 of the Tamil Nadu Revenue Recovery Act.

3. A counter affidavit has ben filed by the third respondent stating that the impugned order has been passed imposing penalty after conducting proper enquiry.

4. Heard the learned counsels appearing for both sides and perused the materials available on record.

5. It is seen that the impugned order of attachment has been issued to recover the penalty imposed for excavating gravel without permission. It is relevant to note that the impugned order came to be passed by invoking Section 24 of the Tamil Nadu Revenue Recovery Act. The Section 24 of the Tamil Nadu Revenue Recovery Act reads as follows:

*"24. **Payment on purchase of distrained property, resale in case of default.-** The property shall be paid for in ready money at the time of the sale, or as soon after as the officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for the same in full. Where the purchaser may fail in the payment of the purchase money, the property shall be resold, and the defaulting purchaser shall be liable for any loss arising, as well as the expenses incurred, on the resale. Where the property may, on the second sale, sell for a higher price than the first sale, the difference or increase shall be the property of him on whose account the said first sale was made."*

6. It is relevant to note that as per Section 25 of the Tamil Nadu Revenue Recovery Act, before passing the attachment order, written demand has to be served upon the defaulter specifying the amount due, the state or land in respect of which it is claimed, name of the party in arrear, the batta due to the person who shall serve the demand, and the time allowed for payment, which shall be fixed with reference to the distance from the land on which the arrears is due to the place at which the money is to be paid. Such demand shall be served by

delivering a copy to the defaulter or to some adult male member of his family at his usual place at abode, or to his authorised agent, or by affixing a copy thereof on some conspicuous part of his last known residence, or on some conspicuous part of the land about to be attached.

7. The provision of Section 25 makes it clear that before proceeding for attachment, written demand could be served on the defaulter or others. But such procedure has not been followed in this case. Since the mandatory provisions have been violated, the order cannot be sustained. Accordingly, the impugned order stands quashed.

8. Therefore, the first respondent shall issue written demand as contemplated under Section 25 of the Tamil Nadu Revenue Recovery Act. Thereafter, proceed for attachment and take action under Section 36 of the Act. The first respondent shall issue the written demand within a period of one month from the date of receipt of a copy of this order. It is made it clear that since the attachment order is quashed for non compliance of legal procedures,

that will not give licence to the writ petitioner to deal with the property at present. Since the matter is remanded to the first respondent to issue written demand and proceed further, till the first respondent pass such an order, the Writ Petitioner shall not deal with the property by way of any alienation.

9. With the above directions, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

01-12-2025

pvs
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

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