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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD).No.18167 of 2025
and
W.M.P.(MD).Nos.13915 and 13916 of 2025

M.Karthik .. Petitioner

Vs.

1.The State Tax Officer,
Madurai Rural (West) Assessment Circle,
Commercial Tax Buildings,
Dr.Thangaraj Salai,
K.K.Nagar,
Madurai - 625 020.

2.The Sub-Registrar,
Chellampatty SRO,
Usilampatty Taluk,
Madurai District.

3.The Tahsildar,
Usilampatty Taluk,
Madurai District. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records on the file of the first respondent made under Letter in 33095043557/2010-11/12-13 dated 01.03.2024 communicated to R-2 and quash the same as illegal, arbitrary and

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violative of principles of natural justice and as a consequential relief to direct the R-2 to delete the entry made in the Encumbrance related to the schedule mentioned property.

For Petitioner	:	M/s.S.Kanmani Annamalai for Mr.M.Anbarasan
For R-1	:	Mr.R.Suresh Kumar Additional Government Pleader
For R-2 & R-3	:	Mr.D.Sasikumar Additional Government Pleader

ORDER

The petitioner has approached this Court to quash the impugned communication of the first respondent dated 01.03.2024, wherein, the first respondent has directed the second respondent to register an encumbrance over the subject property in respect of the tax due in the name of one Nethaji Agencies, which was run by the petitioner's mother, namely, Malarvizhi.

2. The petitioner states that the property in question originally belonged to the petitioner's grandfather, Late Mr.Mayandi Thevar and that the petitioner's grandfather had executed a Will in favour of the petitioner's father, namely, Mr.M.Muthuramalingam on 04.12.1995, which registered as Document No. 12/1995. The petitioner's father in turn has settled the property in favour of the petitioner's mother, Mrs.Malarvizhi by a registered deed of settlement in

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Document No.3063/2023 dated 22.09.2023, who, in turn has now settled the property in favour of the petitioner on 12.12.2023 vide registered settlement deed in Document No.3997/2023.

3. It is noticed that the petitioner's mother, namely, Mrs.Malarvizhi was running a proprietary concern, named, Nethaji Agencies and had suffered assessment orders under the provisions of the TNVAT Act, 2006 on 18.03.2014 for the assessment year 2010-2011 and on 24.03.2014 for the assessment years 2011-2012 and 2012-2013.

4. The learned counsel for the petitioner relied on the order passed by the learned Single Judge of this Court in the case of ***D.Gnanapal Vs. The Assistant Commissioner and others in W.P.No.2655 of 2015 dated 25.06.2021***, wherein, it was held as under:

> *"6. This Court is of the considered opinion that the contentions of the first respondent that the action was initiated under the Revenue Recovery Act, attaching the immovable property in the year 1999, they have failed to continue all further actions in order to auction the property attached and recover the arrears of tax to be collected. Contrarily, the authorities allowed the defaulter to sell the property in the year 1999 in favour of the*

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second respondent. The petitioner is the subsequent purchaser, purchased the property on 13.07.2006. Till such time, no action was taken by the authorities nor further notice was issued to the petitioner, informing about the charge created. In the absence of any such action during the relevant point of time, the impugned notice issued after a lapse of 8 years from the date of purchase by the petitioner, cannot be sustained.

7. The authorities competent, on initiation of action under the Revenue Recovery Act, must ensure that such actions are proceeded with diligently and the arrears of Revenue is collected by auctioning the properties. If they allow the time to lapse for many years and meanwhile, the property was dealt with by the persons by selling the same to other third parties, this Court is of an opinion that the first respondent cannot pursue the matter after long period.

8. In the present case, the subject property was sold by the defaulter / 3 rd respondent to the 2nd respondent on 25.08.1999, who in turn, further sold the property to the petitioner on 13.07.2006 and the petitioner has no knowledge about any such charge created by the Department till the impugned orders are issued on 01.12.2004. The long delay in initiating action would defeat the proceedings itself. Even in the impugned notice, it is stated that the arrears of Commercial Tax due was of the year 1992-93. This being the factum, the writ petition is to be considered.

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9. Accordingly, the impugned order passed by the first respondent in proceedings in Na.Ka.No.1831/98/A3 dated 01.12.2004 is quashed and the writ petition stands allowed."

5. In the present case, the assessment orders have not been appealed against and therefore, the liability has crystallised against the petitioner's mother. These properties thus can be attached and brought to sale as the petitioner's mother had acquired right over the property pursuant to the settlement deed dated 22.09.2023 executed by the petitioner's father in favour of the petitioner's mother. The petitioner's right is therefore subject to the rights of the Commercial Tax Department on the tax dues. It would have been different if the property had been directly settled by the petitioner's father in favour of the petitioner. It is noticed that the Government is also rolling out Samadhan Scheme from time to time.

6. Considering the above circumstances, this Court is inclined to give temporary reprieve to the petitioner subject to the petitioner depositing a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) within a period of twelve (12) weeks. The property will stand attached and encumbered for times to come till the

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Government announces the next Samadhan Scheme. In case the petitioner settles the case under the Samadhan Scheme, the attachment will be lifted, failing which, the amount to be paid pursuant to this order shall be appropriated and the balance recovered in the manner known to law.

7. With the above observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

04.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To
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C.SARAVANAN,J.

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