**(1982) 04 MAD CK 0021**

**In the Madras High Court**

**Case No :** Writ Petition No. 2904 of 1982

B.N. Shankar APPELLANT

Vs

The State of Tamil Nadu RESPONDENT

**Date of Decision :** 23-04-1982

**Acts Referred:**
Tamil Nadu General Sales Tax Act, 1959 — Section 29, 44

**Citation :** AIR 1983 Mad 277 : (1983) 52 STC 338

**Hon'ble Judges :** Nainar Sundaram, J

**Bench :** Single Bench

**Advocate :** D. Srinivasan, for the Appellant;

# Judgement

Nainar Sundaram, J.—This writ petition coming on for orders as to admission on this day, upon perusing the petition and the affidavit filed in

support thereof and upon hearing the arguments of Mr. D. Srinivasan, Advocate for the petitioner, the court made the following order :

The prayer in the writ petition is to call for the records of the second and third respondents in Form No. III, dated 19th February, 1982, issued to

the petitioner on 22nd February, 1982, and quash the same as illegal by the issue of a writ of certiorarified mandamus, directing respondents 2 and

3 to forbear from proceeding further in pursuance of the proceedings of the second respondent in Form No. III, dated 19th February, 1982. The

Form No. III notice has been issued only by the second respondent. There is no denial that the second respondent is empowered u/s 29 of the

Tamil Nadu General Sales Tax Act, 1959, hereinafter referred to as the Act, to prosecute proceedings under the Tamil Nadu Revenue Recovery

Act. Mr. D. Srinivasan, the learned counsel for the petitioner, wants to state that the distraint order in Form No. I under the Tamil Nadu Revenue

Recovery Act dated 12th January, 1982, was issued by the third respondent, who is not competent to do so u/s 29 of the Act. There is no specific

attack of the distraint order in the prayer in the writ petition. Furthermore, there is no specific allegations in the affidavit filed in support of the writ

petition, taking up the stand that the third respondent is not empowered to issue the distraint order. Under the provisions of the Tamil Nadu

Revenue Recovery Act, there is scope for delegation and in the absence of a specific plea in the affidavit filed in support of the writ petition that the

third respondent is not at all empowered to issue the distraint proceedings, it is not possible to investigate into this grievance made orally in the

course of the submissions of the learned counsel for the petitioner.

2. Secondly, the learned counsel would state that there is a dispute with reference to the quantum of the tax and he points out differences in the

figures in the earlier distraint order dated 24th January, 1981, and the latest distraint order dated 12th January, 1982. Even here, the pleas put

forth in the affidavit filed in support of the writ petition are not specific. Admittedly, the petitioner has been paying amounts towards tax dues and in

the latest distraint order dated 12th January, 1982, further details are given and it is only this distraint order that has been prosecuted and the sale

of the movables distrained has been notified. It cannot be stated that there is a disparity as such. The learned counsel for the petitioner would

further state that the petitioner has paid a sum of Rs. 10,170 and that has not been adjusted. If, in fact, such amount has been paid, the petitioner

can bring this to the notice of the authorities concerned and seek to reduce the quantum of tax claimed. I find that in this case allegations are thrown

in a jumble in the affidavit filed in support of the writ petition. There is no specification of the grounds of attack, even though the grounds are

meticulously numbered, which is an empty formality, and this Court is called upon to exercise the discretion in its extraordinary jurisdiction on very

ambiguous grounds. I note that there is a reference to section 44 of the Tamil Nadu Revenue Recovery Act, which has nothing to do with the sale

of the distrained movables. It is well-settled that affidavits are the only pieces of evidence in proceedings under article 226 of the Constitution of

India. They should be precise and explicit as to the grounds of attack. Vagueness and ambiguity should be meticulously avoided. In the absence of specification with exactitude and clarity as to the grounds of attack, this Court will be justified in declining to entertain the writ proceedings and

issue rule nisi. In matters in the nature of highly prerogative writs, it is absolutely essential that the party seeking the same sets forth precisely the

grounds of attack, so that the opposite party may be called upon to answer the same with equal specification. Neither this Court nor the opposite

party, when called upon to answer, should be obliged to spin around in a labyrinth of vague and nebulous allegations to find out the exact grievance

of the petitioner. I am not able to persuade myself to admit this writ petition on the basis of the affidavit filed in support of the same, which is

nothing but a net-work of confused and irresponsible allegations. Hence, this writ petition is dismissed.

 