(1989) 10 KAR CK 0001

In the Karnataka High Court

Case No : Writ Petition No. 19512 of 1981

G.N. Rajappa Naik APPELLANT

Vs

The Deputy Commissioner, Kolar Dist. and others RESPONDENT

Date of Decision : 03-10-1989

Acts Referred:

Constitution of India, 1950 — Article 226
Revenue Recovery Act, 1890 — Section 3 (3), 7 (b)

Citation : AIR 1990 Kar 318 : (1990) 3 KarLJ 182

Hon'ble Judges : P.K. Shyamsundar, J

Bench : Single Bench

Advocate : S.K. Joshi for Smt. S.W. Joshi, for the Appellant; M. Siddagangaiah, Govt. Pleader, for the Respondent

Judgement

1. The petitioner challenges the demand notice issued by the Deputy Commissioner, Kolar in seeking to enforce an excise liability foisted on the petitioner in regard to certain transactions already entered into by him in Chittoor District of Andhra Pradesh. A sum of Rs. 11,963.13 is claimed from the petitioner towards the loss suffered by the Chittoor Excise Authority relating to reauction sale of the privilege of selling an excise product. The reauction is said to have resulted on account of petitioner''s failure ir performing the contract upon being awarded. The alleged loss sustained by the Chittoor Excise Authority not having been made good by the petitioner the Collector of Chittoor sent a certificate in this behalf purportedly under the Revenue Recovery Act to the Deputy Commissioner of Kolar in whose ordinary jurisdiction the petitioner resides, for recovery and remittance. In turn the Deputy Commissioner, Kolar issued a notice of demand as per Annexure-A and the said notice of demand is the target of attack in this writ petition in which amongst other things it is contended that liability was being imposed under Annexure-A without giving any prior information whatsoever to the petitioner advising him of the accrual of such a liability.

2. At any rate the counsel for the petitioner urges that the claim being in the nature of damages assessed under a contract on the basis of an alleged breach could not have been recovered as arrears of land revenue as it could only be recovered by filing a regular suit before a competent court of law. This proposition is sought to be reinforced by depending on the decision in State of Karnataka Vs. Shree Rameshwara Rice Mills, Thirthahalli, . To this writ petition the Collector of Chittoor is also made a party but in spite of notice he has remained absent and is not represented in this Court for obvious reasons apparently because he does not want to submit himself to the jurisdiction of an alien court.

3. Be that as it may, it seems to me and I say so notwithstanding very persuasive argument put forward by Mr. S. K. Joshi for the writ petitioner asking me to strike down the recovery notice Annexure-A on the above-noted grounds, that there is very little I can do to assist the petitioner since the basic demand or liability attaching to the petitioner is in virtue of the proceedings by the excise authority, Chittoor which is beyond the jurisdiction of this Court and will remain so notwithstanding their impleadment to this writ petition and issuance of a notice by this Court. A writ issued by this Court cannot touch anyone beyond the physical territory of the State of Karnataka. But, then, Sri Joshi submits that the Deputy Commissioner of Kolar being involved in the enforcement of the demand made at the instance of the Collector at Chittoor and if as urged by him the demand raised by the Chittoor Collector is unsustainable because the petitioner had no notice of it, I could stilt act and strike down the demand made under Annexure-A. But, then, this aspect of the matter is really no longer res integra in the light of a Bench decision of this Court in K. Burman v. The Commercial Tax Officer, Calcutta (1972 Tax LR 2447). That was a case in which a Commercial Tax Officer of Calcutta made an assessment and levied penalty on petitioner, and as the demand was not paid, issued a certificate for collection under the Bengal Public Demands Recovery Act, 1913 to the Collector of 24 Pargana, West Bengal, who in turn issued a certificate under the Revenue Recovery Act to the Deputy Commissioner, Bangalore who took steps to recover the monies under the Mysore Land Revenue Code. Their Lordships held that the petitioner could not in revenue recovery proceedings question the validity of correctness of the revenue demand in the light of S. 3(3) of the Revenue Recovery Act and that S. 7 of the Revenue Recovery Act extends protection not to the person proceeded against, but to the revenue or public demand sought to be recovered. The only protection which Cl. (b) of S. 7 gives to persons is protection against arrest for recovery of tax payable to local authorities. The aforesaid aspect was brought into sharp focus in the following passage at para 14. It reads :

"To the second question raised on behalf of the petitioner, the clear answer is contained in sub-section (3) of S. 3 of the Revenue Recovery Act, namely, that the Collector of the other District on receiving the certificate issued to him shall proceed to recover the amount stated therein as if it were an arrear of land revenue which had accrued in his own district. The law itself declares that the amount stated in the certificate issued to him is to be regarded as an arrear of land revenue which had accrued in the receiving Collector''s district and directs the said Collector to proceed to recover the same accordingly. The Collector therefore is prohibited by the law from dealing with that matter in any other way."

Therefore, as pointed out by the decision referred to supra the Collector of the transferee district is bound to recover the money covered by the Revenue Recovery Certificate issued by the Collector of the other district in which the demand had arisen and the latter cannot take exception to or look askance at it at all and much less can a Court be asked to investigate into the legality or correctness of such a demand on any ground. The petitioner who claims to be affected by the demand and says it has been vitiated for the reasons urged by him can only get rid of the demand by approaching a Court in the neighbouring State of Andhra Pradesh and in this Court there is little that can be done for him since under the Revenue Recovery Act amount claimed under the revenue recovery certificate is liable to be treated as sacrosanct, by the person who enforces the demand in the transferee district. Added to this, the difficulty in reaching the authority in the neighbouring State who has raised this demand buts away the demand from the reach of this Court.

4. For the reasons aforesaid this writ petition fails and is dismissed. No costs.

5. Petition dismissed.

