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(2014) 10 KL CK 0252

In the High Court Of Kerala

Case No : WP(C). No. 2783 of 2013 (W)

Padmavathy APPELLANT

Vs

Kerala State RESPONDENT

Date of Decision : 23-10-2014

Acts Referred:
Kerala Revenue Recovery Act, 1968 — Section 50, 50(1), 52

Citation : (2014) 10 KL CK 0252

Hon'ble Judges : A.K. Jayasankaran Nambiar, J

Bench : Single Bench

Advocate : P. Deepthi and Sabu John, Advocate for the Appellant; Liju V. Stephen, Government Pleader, Advocate for the Respondent

Judgement

A.K. Jayasankaran Nambiar, J.—The petitioner is an abkari contractor who defaulted on her liability to the Sales Tax Department. By Ext. P1 notice, pertaining to the assessment year 1994-1995, a demand was served on her for an amount of Rs. 7,62,241/-. Thereafter, pursuant to Ext. P2 requisition notice by the sales tax authorities, Exts. P4 and P5 attachment notices pertaining to lands owned by the petitioner in Vellattanjur village and Chiranallur village came to be attached for realization of the dues from the petitioner. It is stated that subsequently the sales tax authorities had reduced the demand to a figure of Rs. 7,57,980/-. It is also pointed out that in appeal the demand against the petitioner was further reduced and accordingly, the revenue recovery proceedings were continued against the petitioner only for an amount of Rs. 9,78,596/-, which included the tax and the interest thereon. The revenue recovery proceedings initiated against the petitioner culminated in Exts. P7 and P8 orders whereby the sale of the lands covered by Exts. P4 and P5 notices were confirmed. Insofar as there were no purchasers at the auction conducted by the respondents, the properties in question were purchased by the Government itself as a bought-in land in accordance with the provisions of Section 50 of the Kerala Revenue Recovery Act, 1968. It would appear that the petitioner thereafter preferred a representation with the Government for re-conveyance of the land that was purchased by the Government as bought-in land in the revenue recovery proceedings. By Ext. P10 order dated 06.05.2010, the Government rejected the request of the petitioner for re-conveyance citing inter alia the Government Circulars that mandated that an application for re-conveyance of lands, that had been purchased by the Government in revenue recovery proceedings, had to be preferred within two years from the date of confirmation of the sale. As this was not done by the petitioner, the Government did not deem it necessary to consider her application for re-conveyance. Ext. P10 order of the Government is impugned in the writ petition together with Exts. P7 and P8 orders confirming the sale.

2. The main contention of the petitioner is with regard to the manner in which the sale is said to have been conducted. According to the petitioner, the respondents did not comply with the requirement of Section 50(1) of the Kerala Revenue Recovery Act while conducting the sale that led to the purchase of the land by the Government.

3. A counter affidavit has been filed on behalf of the 4th respondent wherein it is pointed out that the sale through auction was posted on various dates, and due notice of the posting dates of the sale was also served on the petitioner. On the dates of sale, since there were no bidders for the land in question, the sale was postponed on several occasions and it was only on 21.10.2000 and 28.12.2005 respectively that the purchase by the Government in terms of Section 50 was effected in the case of the properties attached by Exts. P5 and P4 notices. The said purchases were confirmed on 01.08.2001 and 26.08.2006 respectively. It is also pointed out that the lands in question have since been included by the Government in the list of lands that are proposed to be distributed among the landless people in terms of the "zero landless project" conceived by the Government.

4. I have heard Sri. Sabu John, the learned counsel appearing on behalf of the petitioner as also the learned Government Pleader appearing on behalf of the respondents.

5. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I note that this is a case where the proceedings initiated against the petitioner under the Kerala Revenue Recovery Act have culminated in the purchase of the properties, that were attached by Exts. P4 and P5 notices, by the Government pursuant to Section 50 of the Kerala Revenue Recovery Act. Although the auction sales were confirmed on 01.08.2001 and 26.08.2006 respectively, no steps have been taken by the petitioner in terms of Section 52 of the Act for the purposes of setting aside the sale. That apart, the petitioner has also not taken any steps, within the period contemplated in the various Government orders, for obtaining a re-conveyance of the land that was purchased by the Government in terms of Section 50 of the Kerala Revenue Recovery Act. In this view of the matter, I do not see any reason to interfere with Exts. P7 and P8 orders confirming the sale of the properties belonging to the

petitioner, or Ext. P10 order of the Government refusing the request of the petitioner for re-conveyance of the lands purchased by the Government. In taking this view, I am fortified by the judgments of this Court in State of Kerala Vs. Dr. George Jacob, both of which are authorities for the proposition that re-conveyance of bought-in land is permissible only if an application to that effect is filed within two years of confirmation of the sale and that the mere settlement of liabilities under an Amnesty Scheme will not entitle a defaulter to a re-conveyance of land purchased by the Government in terms of the Kerala Revenue recovery Act. Thus, following the judgments referred to above, I dismiss this writ petition as devoid of merit.

It is submitted by counsel for the petitioner that pursuant to an interim order passed by this Court the petitioner had attempted to make a payment of Rs. 15 lakhs to the respondents and, on their refusal to accept the same, he had deposited the amount as fixed deposit in the name of counsel for the petitioner. The deposit was to hold good till the disposal of the writ petition. In view of the fact that the writ petition has now been dismissed by this judgment, it will be open to counsel for the petitioner to get the money released from the Bank, for payment to the petitioner.