(2013) 08 KL CK 0012

In the High Court Of Kerala

Case No : Writ Petition (C) No. 19019 of 2013

Sudan K.K. and Others	APPELLANT
Vs	
State of Kerala and Others	RESPONDENT

Date of Decision : 05-08-2013

Acts Referred:

Citation : (2013) 4 KHC 201 : (2013) 4 KLT 563

Hon'ble Judges : P.R. Ramachandra Menon, J

Bench : Single Bench

Advocate : K. Jayakumar, Sadhana Kumari Eswari, C.K. Udayakumary and Renhana C.S, for the Appellant; Joseph George, Government Pleader, for the Respondent

Judgement

P.R. Ramachandra Menon, J.—Refusal to accept tax under the provisions in the Kerala Land Tax Act from the first petitioner, in respect of the property covered by Ext. P1 Sale Deed (which is also a subject-matter of Exts. P2 and P3 verdicts passed by the competent Civil Courts) made the petitioner to approach this Court by filing this writ petition. Mr. K. Jayakumar, the learned Senior Counsel appearing for the petitioner submits that there is absolutely no rhyme or reason on the part of the respondents to refuse the tax to be accepted from the first petitioner. The sequence of the events as narrated in the writ petition shows that the first petitioner has derived the title from Ext. P1 title deed of the year 1994. The sale effected as per the said deed was the subject-matter of challenge before the Civil Courts at the instance of somebody else and the suit was decreed against the first petitioner herein. This made the first petitioner to challenge the same by filing appeal and after considering the same, the verdict passed by the trial court was set aside and the matter was remanded for fresh consideration as specified, pointing out that, the first plaintiff ought to have actually demanded for partition. Pursuant to the remand, the suit was got amended by the first plaintiff. On completion of the trial, the suit was dismissed as devoid of any merit, as per Ext. P2 judgment, which was subjected to challenge by the plaintiffs by way of AS No. 10 of 2009. After considering the merits, interference was declined and the appeal was also dismissed as per Ext. P3, which has become final.

2. The learned counsel submits that, tax was being received from the first petitioner earlier, but later, because of the turn of events before the Civil Court, it was not accepted. Even after culmination of the proceedings as per Exts. P2 and P3, it is still being refused to be accepted and as such, there is no other alternative for the petitioner, but to approach this Court and hence this writ petition. Heard the learned Government Pleader as well, who submits that tax was not accepted only because of the complaints preferred by the parties to the Civil Court. But the fact remains that the matter has become final by virtue of Exts. P2 and P3 and as such, there is no rationale on the part of the respondents in refusing to accept the land tax from the first petitioner. Even otherwise, pendency of civil suit can ever be a bar with regard to the acceptance of land tax, unless specifically restrained from accepting the tax by virtue of any order passed by the Court. This aspect has already been dealt with by this Court while passing judgment in WP (C) No. 10771 of 2013.

In the said circumstances, this Court finds that the petitioners are entitled to succeed. There will be a direction to the respondents to accept the land tax in respect of Ext. P1 property from the first petitioner as and when the same is surrendered. It is also made clear that, if the party, who lost the battle before the Civil Court vide Exts. P2 and P3, has preferred any further proceedings by way of second appeal or otherwise, the acceptance of tax from the first petitioner as above, will not a bar to pursue such proceedings in accordance with law and it shall be subject to the outcome of such litigation.

Writ petition is disposed of.

