Ajith Vs. State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1092565

Court : Kerala

Decided On : Oct-01-2013

Judge : Honourable Mr.Justice Harun-Ul-Rashid

Appellant : Ajith

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.CHITAMBARESH TUESDAY, THE1T DAYOF OCTOBER20139TH ASWINA, 1935 WP(C).No. 24103 of 2013 (K) --------------------------- PETITIONER(S): ------------------------- 1. ANTONY M.T., S/O. M.C.THOMAS AGED42YEARS 'THARAVADU', MALIAKKAL HOUSE PANAMPILLY NAGAR CROSS ROAD, PANAMPILLY NAGAR KOCHI-36.

2. ANILKUMAR N.L. KANNARKATTU PARAMBIL HOUSE, PANAMPILLYNAGAR KOCHI-36.

3. MURALIDHARAN KANNARKATTU PARAMBIL HOUSE, PANAMPILLYNAGAR KOCHI-36.

4. SURESH KANNARKATTU PARAMBIL HOUSE, PANAMPILLYNAGAR KOCHI-36.

5. P. PREMDAS PERUMBULLITHARA HOUSE, PANAMPILLY NAGAR, KOCHI-36.

6. N.A. JOSEPH NADUVILA PARAMBIL HOUSE PARAMBITHARA ROAD ,PANAMPILLY NAGAR, KOCHI-36.

7. FR. JOHN BERKMANS, S/O.VARKEYALIAS PAPPACHAN KOYITHARA KANNARKATTU HOUSE PARAMBITHARA ROAD , PANAMPILLY NAGAR, KOCHI-36. BYADVS.SRI.BABU JOSEPH KURUVATHAZHA SRI.T.K.BIJU (MANJINIKARA) RESPONDENT(S): ---------------------------- 1. DISTRICT COLLECTOR, CIVIL STATION, KAKKANAD, KOCHI-682 030.

2. SPECIAL TAHSILDAR (LAND ACQUISITION) COCHIN CORPORATION, ZONAL OFFICE, VYTTILA-682 019 3. KOCHI METRO RAIL CORPORATION REPRESENTED BY ITS MANAGING DIRECTOR VYTTILA KOCHI-682 019. WP(C).No. 24103 of 2013 (K) 4. COMMISSIONER OF INCOME TAX (TDS) OFFICE OF THE COMMISSIONER OF INCOME TAX C.R.BUILDINGS, I.S.PRESS ROAD, KOCHI-682 018 R BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX R BY GOVERNMENT PLEADER SRI. T.K SHAIJ RAJ R BY SRI.K.JAJU BABU,SC,KOCHI METRO RAIL LTD THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON0110- 2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 24103 of 2013 (K) APPENDIX PETITIONERS EXHIBITS EXT.P1 COPY OF THE TAX RECEIPT BEARING NO.H500743 OF BOOK NO.H50075DATED27-2013 ISSUED FROM THE VILLAGE OFFICE, ERNAKULAM TO THE1T PETITIONER EXT.P2 COPY OF THE TAX RECEIPT BEARING NO.H4644360 OF BOOK NO.H46435DATED117-2013 ISSUED FROM THE VILLAGE OFFICE , ERNAKULAM TO THE2D PETITIONER EXT.P3 COPY OF THE TAX RECEIPT BEARING NO.H464348 OF BOOK NO.H46435DATED117-2013 ISSUED FROM THE VILLAGE OFFICE , ERNAKULAM TO THE3D PETITIONER EXT.P4 COPY OF THE TAX RECEIPT BEARING NO.H464349 OF BOOK NO.H46435DATED117-2013 ISSUED FROM THE VILLAGE OFFICE , ERNAKULAM TO THE4H PETITIONER EXT.P5 COPY OF THE TAX RECEIPT BEARING NO.H507795 OF BOOK NO.H50780DATED269-2013 ISSUED FROM THE VILLAGE OFFICE ,

ERNAKULAM EXT.P6 COPY OF THE TAX RECEIPT BEARING NO.H507791 OF BOOK NO.H50750DATED269--2013 ISSUED FROM THE VILLAGE OFFICE , ERNAKULAM TO THE6H PETITIONER EXT.P7 COPY OF THE TAX RECEIPT BEARING NO.H461810 OF BOOK NO.H46182DATED197-2013 ISSUED FROM THE VILLAGE OFFICE , ERNAKULAM TO THE7H PETITIONER EXT.P8 COPY OF THE NOTICE BEARING NO.C-20/11 DATED2910-2012 ISSUED BY THE2D RESPONDENT TO THE1T PETITIONER EXT.P9 COPY OF THE NOTICE BEARING NO.C-20/11 DATED2910-2012 ISSUED BY THE2D RESPONDENT TO THE2D PETITIONER EXT.P10 COPY OF THE NOTICE BEARING NO.C-20/11 DATED2910-2012 ISSUED BY THE2D RESPONDENT TO THE3D PETITIONER EXT.P11 COPY OF THE NOTICE BEARING NO.C-20/11 DATED239-2013 ISSUED BY THE2D RESPONDENT TO THE1T PETITIONER EXT.P12 COPY OF THE NOTICE BEARING NO.C-20/11 DATED239-2013 ISSUED BY THE2D RESPONDENT TO THE3D PETITIONER EXT.P13 COPY OF THE NOTICE BEARING NO.C-20/11 DATED239-2013 ISSUED BY THE2D RESPONDENT TO THE4H PETITIONER EXT.P14 COPY OF THE NOTICE BEARING NO.C-20/11 DATED239-2013 ISSUED BY THE2D RESPONDENT TO THE5H PETITIONER WP(C).No. 24103 of 2013 (K) ---2-- EXT.P15 COPY OF THE

JUDGMENT
DATED238-2013 IN W.P.C NO.20572/2013 OF THIS HONOURABLE COURT. RESPONDENTS EXHIBITS NIL TRUE COPY P.A TO JUDGE SMM V.CHITAMBARESH,J.

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JUDGMENT

There is no question of deduction under Section 194 LA of the Income Tax Act in this case. This is because the sale price was fixed by negotiation and not through Court in compulsory acquisition. The property is situate within the limits of the Corporation of Kochi. Therefore the same cannot be termed as an agricultural land in view of the provisions of the Income Tax Act.

2. Each of the petitioners would be liable to pay 1% of the sum fixed as sale consideration under Section 194 IA of the Income Tax Act. This is subject to the condition that the sale consideration due to each of the petitioners exceeds 50 lakhs. No deduction under Section 194 IA of the Income Tax Act need be made if the sale consideration due to anyone of the petitioners is less than 50 lakhs.

3. The first and the second respondents shall disburse the amounts due to the petitioners accordingly. The writ petition is disposed of. V.CHITAMBARESH JUDGE smm 2