

Maria Thomas. Vs.

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Court : Kerala

Decided On : Dec-21-2010

Reported in : ILR2010(4)Ker467

Judge : C.K.Abdul Rehim, J.

Appeal No. : WP(C).No. 36662 of 2010(G)

Appellant : Maria Thomas.

Respondent : Additional Sales Tax Officer Iii.

Advocate for Pet/Ap. : SRI.K.S.MADHUSOODANAN, Adv.

Judgement :

1. The petitioner had availed a business loan from the 2nd respondent Bank during the year 1999 to the tune of Rs.15,00,000/-. According to the petitioner, due to set back experienced in the business activities there occurred default in repayment on a regular basis. Meanwhile, revenue recovery steps were also initiated for realising arrears of sales tax due with respect to the year 2000-01. It is stated that the property which was mortgaged for securing the loan was attached by the 1st respondent under the revenue recovery proceedings.

2. It is pointed out that, on the basis of approach made by the petitioner, the 2nd respondent had permitted settlement of the loan account on remitting a sum of Rs.30,00,000/- on or before 25.12.2010. Exts.P2 and P3 is the letters issued by the 2nd respondent Bank in this regard. According to the petitioner she had taken

effective steps to wipe off the liability by arranging sale of the property. It is stated that she had already found out a probable buyer and the buyer is prepared to make payment of the amount to enable the petitioner to pay off the liabilities. But since the attachment is continuing the sale could not be materialised, is the contention.

3. It is pointed out that, against the order of assessment, the petitioner had preferred statutory appeal and through Ext.P1 considerable relief was granted to the petitioner. In Ext.P1 the assessment was set aside and the matter was remanded to the assessing authority for passing fresh orders. But complaint of the petitioner is that the 1st respondent is not issuing modified orders on the basis of Ext.P1, to enable the petitioner to pay off the liability and to get the attachment released. Hence the petitioner is seeking direction to the 1st respondent to issue modified orders within a time frame and also seeking direction to the 2nd respondent Bank to permit payment of the amount as agreed upon within a reasonable time.

4. Considering the facts and circumstances as stated above, I am of the view that the writ petition can be disposed of directing the 1st respondent to pass modified orders of assessment on the basis of Ext.P1, at the earliest possible, at any rate within a period of two weeks from the date of receipt of a copy of this judgment.

5. Considering the contention of the petitioner that she had already arranged a probable buyer and that the sale could not be materialised only due to the pendency of the attachment, I am of the view that the petitioner can clear payment of the tax amount on the basis of modified orders to be issued by the 1st respondent as directed above. It is evident that once the sale tax arrears are cleared, the petitioner can proceed with the sale and pay off the liability due to the 2nd respondent Bank.

6. However, considering the above facts, I am of the view that indulgence can be shown in directing the 2nd respondent to keep the matter pending for period of one month from today in order to facilitate the petitioner to pay off the liability as agreed upon through Exts.P2 and P3 letters. It is left open to the Bank to charge interest on the settled amount for the belated payment during the above said

period.

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