

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.03.2016

Coram

The Hon'ble Mr.Justice M.DURAISWAMY

W.P.No.11050 of 2016
and
W.M.P.No.9618 of 2016

V.K.Venkataraman

[Petitioner]

Vs

1 The Assistant Commissioner
Cuddalore Rural Assessment Circle
Commercial Taxes Department
Cuddalore-607 001.

2 The Sub-Registrar Joint-I
Cuddalore Registration District
Cuddalore-607 001.

[Respondents]

Writ Petition, filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Certiorarified mandamus calling for the records relating to the auction of sale notice in Na.Ka.A3/53/05 dated 15.04.2013 on the file of the first respondent herein and to quash the same and consequently direct the respondents herein to remove the encumbrance entries created in E.C.No.117/11-01-2016 on the petitioner personal property situates at Door No.92 and comprised in Town Survey No.247 Pudupalayam Main Road Cuddalore within a time frame as may be fixed by this Court.

For Petitioner : Mr.S.Sivakumar

For Respondents: Mr.M.S. Ramesh, AGP (R2)
Mr.Manoharan Sundaram, AGP (R1)

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O R D E R

The petitioner has filed the above writ petition to issue a writ of certiorarified mandamus to call for the records relating to the Auction Sale Notice dated 15.04.2013 on the file of the 1st respondent and to quash the same and to direct the respondents to remove the encumbrance entries on the petitioner's personal property situate at Door No.92 and comprised in Town Survey No.247, Pudupalayam Main Road, Cuddalore, within a time frame.

2. It is the case of the petitioner that for the dues of the company viz., M/s Vijaya Industrial Products Private Limited, the personal property of the petitioner was attached by the 1st respondent and an entry was also made in the encumbrance certificate pertaining to the above mentioned property.

3. It is settled position that for the dues of the Company, the personal properties of an individual cannot be attached. It is not in dispute that the Company viz., M/s Vijaya Industrial Products Private Limited is in existence and the Company is being run by the Directors.

4. Mr.Manoharan Sundaram, learned Additional Government Pleader appearing for the 1st respondent fairly submitted that for the dues of the Company, the personal property of the petitioner cannot be attached and therefore, the impugned auction sale notice is liable to be set aside.

5. In view of the submissions made by the learned counsel on either side, since the above mentioned personal property of the petitioner was attached by the 1st respondent for the dues of the Company and brought to auction sale by the impugned order dated 15.04.2013, which is against the provisions of law, the same is liable to be set aside.

6. Accordingly, the impugned order dated 15.04.2013 is set aside. Liberty is given to the 1st respondent to proceed against the properties standing in the name of the Company viz., M/s Vijaya Industrial Products Limited for the tax dues.

7. In view of the order passed in this writ petition, the attachment made by the 1st respondent in respect of the petitioner's property mentioned above is raised.

With these observations, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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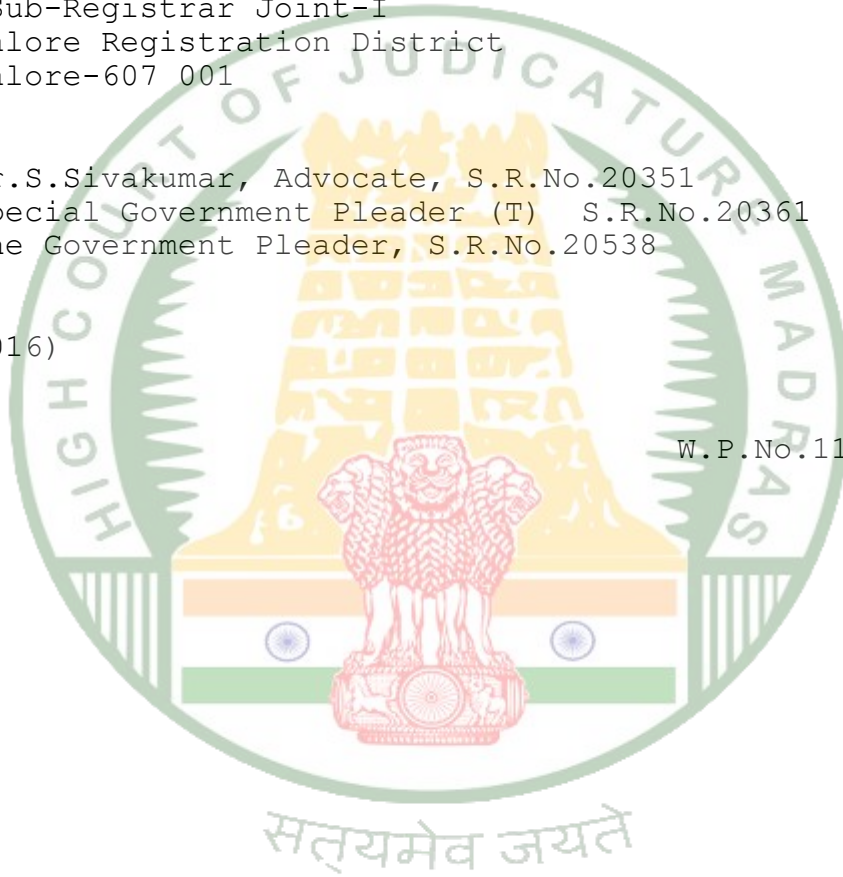
To

- 1 The Assistant Commissioner
Cuddalore Rural Assessment Circle
Commercial Taxes Department
Cuddalore-607 001.
- 2 The Sub-Registrar Joint-I
Cuddalore Registration District
Cuddalore-607 001

+1cc to Mr.S.Sivakumar, Advocate, S.R.No.20351
+1cc to Special Government Pleader (T) S.R.No.20361
+1cc to the Government Pleader, S.R.No.20538

RV(CO)
EU(7/04/2016)

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