

In the High Court of Judicature at Madras

Dated : 03.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.38188 of 2016 &
WMP.Nos.32732 & 32733 of 2016

Ansar Basha

...Petitioner

Vs

1.The Tax Recovery Officer, No.3,
Gandhi Road, Salem-7.

2.M/s.Challenge Assets India Pvt.
Ltd., Krishnagiri-1.

3.The Sub-Registrar, Veppanapalli,
Krishnagiri District, Krishnagiri-1.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in proceedings No.TRC.No.3/2015-16/SLM dated 2.3.2016, quash the same as illegal, incompetent and without jurisdiction and further direct the third respondent to register the documents and other grant consequential benefits.

For Petitioner :	Mr.V.Raghavachari
For Respondent-1 :	Mr.S.Rajesh
For Respondent-3 :	Mr.K.J.Sivakumar, GA

ORDER

Mr.S.Rajesh, learned Standing Counsel accepts notice for the first respondent. Mr.K.J.Sivakumar, learned Government Advocate accepts notice for the third respondent. Heard both. In view of the limited nature of relief to be granted in this writ petition, the writ petition itself is taken up for final disposal without ordering notice to the second respondent.

2. In this writ petition, the petitioner has challenged an order of attachment, passed by the first respondent in respect of the property comprised in S.No.16/8A, Chennachandiram Village, Veppanapalli Taluk, Krishnagiri District.

3. On the date of attachment, it appears that the property stood registered in the name of the second respondent.

4. The petitioner's case is that initially the petitioner had sold the property to the second respondent, as there were certain financial transactions between the petitioner and the second respondent and after fully satisfying all the dues, the second respondent now executed a general power of attorney along with the sale agreement, in favour of the petitioner. Therefore, it is the further case of the petitioner that he is the absolute owner of the said property as on date, as the general power of attorney has been executed with a sale agreement. When the petitioner approached the third respondent for registering a document, it came to light about the attachment and hence, the petitioner is before this Court.

5. It is not in dispute that the property stands registered in the name of the second respondent. But, the petitioner relies upon a subsequent transaction said to have taken place on 7.3.2016, which is a registered sale agreement. If the petitioner's case is that he has stepped into the shoes of the second respondent and he is the rightful owner of the property, that contention should be raised before the Tax Recovery Officer and a prayer should be made for raising the attachment. As rightly pointed out by the learned Standing Counsel for the first respondent, the order of attachment was communicated to the second respondent, which has not challenged the same till date.

6. In the light of the stand taken by the petitioner, the writ petition is disposed of by granting liberty to the petitioner to challenge the order of attachment by filing an appropriate application before the first respondent along with relevant documents and if the same is filed, the first respondent shall consider such application after notice to the petitioner and the second respondent and after hearing the parties, take a decision on merits and in accordance with law, within a reasonable time and not later than eight weeks from the date, on which, the application is filed. No costs. Consequently, the above WMPs are closed.

03.11.2016

Internet : Yes

RS

T.S.SIVAGNANAM,J

RS

To

- 1.The Tax Recovery Officer, No.3, Gandhi Road, Salem-7.
- 2.The Sub-Registrar, Veppanapalli, Krishnagiri District, Krishnagiri-1.

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