

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.9792 of 2016 and
W.M.P.No.8777 of 2016

Madhusudhan Khemka

... Petitioner

Vs.

- 1.The Tax Recovery Officer - 2,
Corporate Range - 2 (Non-Corporate Range-7),
IV Floor, Wanaparthy Block,
121, Nungambakkam High Road,
Chennai - 600 034.
- 2.Champa Devi
- 3.Rajkumar Khemka
- 4.Thirupathy Kumar Khemka

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in TR No.15-R/2014-15/TRO-2 dated 24.02.2016 and quash the proceedings and consequently direct the 1st respondent herein to pass suitable orders adjudicating upon the claim of the petitioner made on 14.03.2016.

For Petitioner : Mrs.Nalini Chidambaram, Senior Counsel
for Mr.A.Umasankar

For Respondent : Mr.T.Pramod Kumar Chopda,
Standing Counsel (R1)

सतयमेव जयते
O R D E R

The petitioner has filed the above Writ Petition to issue writ of certiorarified mandamus to call for the records of the 1st respondent dated 24.02.2016 and quash the proceedings and consequently direct the 1st respondent to pass appropriate orders adjudicating upon the claim of the petitioner made on 14.03.2016.

2.Mrs.Nalini Chidambaram, learned Senior Counsel appearing for the petitioner submitted that the 1st respondent is bringing the property for sale on 29.03.2016 for the default committed by the 2nd respondent and others. The learned Senior Counsel submitted that the petitioner had filed a claim petition before the 1st respondent on 14.03.2016 under Rule 11 of the Income Tax

Act, 1961. The learned Senior Counsel further submitted that under Rule 11 (1) of the Act, the Tax Recovery Officer should postpone the sale till the claim petition is adjudicated. Further, the learned Senior Counsel submitted that since the sale of the property has been fixed on 29.03.2016, the 1st respondent is proceeding with the sale without adjudicating the claim petition filed by the petitioner. The learned Senior Counsel also submitted that the petitioner would appear for hearing before the 1st respondent on 18.03.2016.

3.Mr.T.Pramod Kumar Chopda, learned Standing Counsel taking notice for the 1st respondent submitted that in the event of the petitioner appearing before the 1st respondent on 18.03.2016, the 1st respondent would pass orders in the claim petition filed by the petitioner on or before 24.03.2016.

4.In these circumstances, without disturbing the sale fixed on 29.03.2016, I direct the petitioner to appear for hearing before the 1st respondent on 18.03.2016 and I direct the 1st respondent to decide the claim petition filed by the petitioner, on merits and in accordance with law, on or before 24.03.2016, after hearing the submissions of the petitioner.

5.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Tax Recovery Officer - 2,
Corporate Range - 2 (Non-Corporate Range-7),
IV Floor, Wanaparthi Block,
121, Nungambakkam High Road,
Chennai - 600 034.

+1cc to M/S.Uma Shankar, Advocate, S.R.No.16761
+1cc to Mr.T.Pramodkumar Chopda, Advocate, S.R.No.16756

W.P.No.9792 of 2016 and
W.M.P.No.8777 of 2016

ca(CO)
srg(16/03/2016)