

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.7456 of 2017
and
W.M.P.No.8144 of 2017

Ozone Homes Private Limited,
Rep by its Authorized Signatory Mr.K.Krishnan
No.63, G N Chetty Road, T Nagar,
Chennai-600 017.

... Petitioner

Vs.

1. The Tax Recovery Officer-5,
O/o the Tax Recovery Officer-5,
Room No.505, (5th floor),
Wanaparthi Block, 121, M.G.Road,
Chennai-600 034.

2. Sri T A S C Jawhar Ayya
Partner of M/s. RJK Investments,
Door NO.2/75, Bonaza-I, II Cross Street,
Off Blue Beach Road,
Neelankarai, Chennai-600 041.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, directing the first respondent to modify the order dated 18.01.2017, vide TR No.1236/2014-15 & 1269 to 1272/2016-17-AAJFR4948R issued by the first respondent in terms of the representation of the petitioner dated 25.01.2017 in a time bound manner.

For Petitioner : Mr.R.Sivaraman

For Respondents : Mrs.Hema Muralikrishnan,
Standing Counsel for R1

: Mr.G.Vijayanand for R2
for M/s.G.Vijayanand Associates

O R D E R

Heard Mr.R.Sivaraman, learned counsel for the petitioner; Mrs.Hema Muralikrishnan, learned Standing Counsel appearing for the first respondent and Mr.G.Vijayanand, learned counsel appearing for the second respondent.

2. The petitioner has filed this writ petition seeking for issuance of a Writ of Mandamus, directing the first respondent to modify the order dated 18.01.2017, vide TR No.1236/2014-15 & 1269 to 1272/2016-17-AAJFR4948R issued by the first respondent in terms of the representation of the petitioner dated 25.01.2017.

3. In the counter filed by the first respondent, the Tax Recovery Officer, it appears that she has taken a stand that the petitioner's request is not feasible of consideration. However, the proper procedure that has to be followed is to pass an order on the request made by the petitioner to modify the order of attachment dated 18.01.2017, and if that had been done, then the petitioner would be in a position to workout his rights and remedies in accordance with law. There, appears to be a dispute between the petitioner and the second respondent, who is the owner of the land. The admitted fact being, there is a joint venture agreement entered into between the petitioner and the second respondent and in terms contained therein, a power of attorney has been granted in favour of the petitioner to deal with the property or a portion of the property.

4. In such circumstances, the first respondent has to necessarily pass an order on the petitioner's application dated 25.01.2017, especially in the light of the fact that the documents, which have been executed by the second respondent in favour of the petitioner, are the registered instruments and clearly reflected in the encumbrance.

5. Accordingly, the first respondent is directed to pass an order on the petitioner's application dated 25.01.2017, on merits and in accordance with law and communicate the same within the period of seven days from today. It is made clear that this Court has not gone into any of the issues raised by the petitioner nor the issue raised by the respondents 1 and 2 and It is open to the first respondent to take appropriate stand in the order to be passed by them.

6. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

gsk/vsm

To

The Tax Recovery Officer-5,
O/o the Tax Recovery Officer-5,
Room No.505, (5th floor),
Wanaparthi Block, 121, M.G.Road,
Chennai-600 034.

+1cc to Mr.R.Sivaraman, Advocate in sr.no.49308
+1cc to M/s.G.Vijayanand Associate in sr.no.49257
+1cc to M/s.Hema Muralikrishnan, Advocate in sr.no.49153

W.P.Nos.7456 of 2017

RV(CO)
NR 14/07/2017



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