

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.14939 of 2017

ORDER: (V. Ramasubramanian, J)

The petitioner has come up with the above writ petition challenging the action of the respondents in attaching his savings bank account wherein the monthly pension drawn by him is credited.

2. Heard Mr. K. Ramakanth Reddy, learned counsel for the petitioner. Mr. B. Narasimha Sarma, learned senior special standing counsel takes notice for the Department.

3. The petitioner retired from the State Government service long time ago and he is now 85 years of age. The petitioner sold a land claiming to be an agricultural land and sought long time capital gains for the Assessment Year 2009-10. But the said assessment was reopened and the claim was disallowed. A demand for tax to the tune of more than Rs.1.00 crore was made. The petitioner filed a statutory appeal but could not pay 15% of the disputed tax. This resulted in the order attaining finality.

4. Since the tax determined was not paid, a notice of attachment was served on the petitioner, forcing the petitioner to come up with the above writ petition.

5. Learned standing counsel for the department could not dispute the claim of the petitioner that the pension cannot be attached. But the contention of the learned senior standing counsel for the Department is that what has been issued is only a notice

under Section 148 of the Income Tax Act and not an order of attachment under Section 289 of the Act.

6. Technically the learned senior standing counsel is correct. But unless the fact that the pension amount cannot be attached is made clear, it is possible that by oversight or omission an order under Section 289 of the Act is also passed.

7. Therefore, the writ petition is disposed of directing the respondents not to attach the pension amount of the petitioner lying in his savings bank account. There will be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.



V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 28-04-2017

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