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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.2939 of 2018
and
W.M.P.(MD).Nos.3102 & 3103 of 2018

Shri.M.Subramanian ...Petitioner

Vs.

Tax Recovery Officer,
Income Tax Offices,
Madurai-625 002. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in the matter of attachment of the petitioner's property in Form No.ITCP 16 dated 21.12.2015 (a copy of which is not supplied to the petitioner though admitted in his order dated 27.10.2017) and the order dated 27.10.2017 in C.No.Rajendran/TRO-2/Mdu/2016-17 holding the sale in petitioner's favour as null and void which has been passed without jurisdiction and quash both the orders.

For Petitioner : Mr.R.Srinivasan
For Respondent : Mrs.S.Srimathi
Special Government Pleader

ORDER

Mrs.S.Srimathi, learned Special Government Pleader, takes notice on behalf of the respondent.

By consent of both parties, the main Writ Petition itself is taken up for final disposal.

3.Heard Mr.R.Srinivasan, learned counsel, appearing for the petitioner and Mrs.S.Srimathi, learned Special Government Pleader, appearing for the respondent.

4.The petitioner purchased the property in question on 16.06.2012. The property belonged to one R.Murugan and M.Kalimuthu. The said land owners had executed a power of Attorney dated 16.06.2012, in favour of one Rajendran. The said Rajendran as power agent of the land owners had executed sale deed dated 16.06.2012, in favour of the petitioner herein. This

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property came to be attached by the respondent herein on 21.12.2015. Subsequently, by the order impugned in the Writ Petition, the said transaction had also been declared as null and void. The same is assailed in this Writ Petition.

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5.It is true that the said Rajendran was a defaulting assessee with the respondent. If the said assessee was a defaulter, the respondent must proceed only against his properties. In the present case, the property purchased by the petitioner did not belong to the defaulting assessee. Therefore, the order attaching the said property and declaring the sale transaction as null and void can only be characterised as patently illegal and arbitrary. In this view of the matter, the order impugned in the Writ Petition stands quashed. The order effecting attachment on the property in question is lifted.

6.The Writ Petition is allowed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

Tax Recovery Officer,
Income Tax Offices,
Madurai-625 002.

+2CC TO M/S.R.SRINIVASAN, ADVOCATE, SR NO.53444

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