HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION No.33003 OF 2018

ORDER: *(Per Hon'ble Sri Justice V. Ramasubramanian)*

The Indian Overseas Bank has come up with the above writ petition challenging the orders of attachment issued by the Tax Recovery Officer on 13.10.2016, on the ground that they have a pre-existing mortgage on the very same properties.

2. Heard Mr. B. Harinath Rao, learned counsel for the petitioner and Mrs. M. Kiranmayee, learned Senior Standing Counsel for the Department.

3. In this case, the mortgage of the very same properties was created on 20.06.2013. But, the assessment under the Income Tax Act, 1961, was completed and an order was passed on 31.03.2016. Thereafter, a notice under Rule 2 of the Second Schedule was issued on 07.10.2016 followed by an order of attachment dated 13.10.2016.

4. Therefore, it is clear that on the date of the mortgage, there was no order of attachment.

5. The attempt made by the Income Tax Department to fall back upon Section 281, was negated by this Court by a judgment in **M/s. ICICI Bank Limited v. Tax Recovery Officer (W.P. No.33417 of 2018, dated 04.12.2018)**. This Court went into greater detail and ordered the lifting of the attachment.

6. Following the said decision, this Writ Petition is also allowed. However, there shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

V. RAMASUBRAMANIAN, J

T. AMARNATH GOUD, J

April 16, 2019
Mgr

HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD