IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32551 of 2018
and W.M.P.Nos.37752 & 37753 of 2018

H.Suresh Patel ...Petitioner

Vs

1. The Commercial Tax Officer,
Commercial Taxes Department,
Tindivanam, Villupuram District,
Tamil Nadu.

2. The Sub-Registrar,
Registration Department,
Vanur, Villupuram District,
Tamil Nadu. ...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the first respondent herein in Letter No. Na.Ka.AA1/879/2016 dated 26.04.2016 quashing the same.

For Petitioner : Mr.P.Suresh

For Respondents: Mr.V.Veluchamy
Government Advocate

O R D E R

The order passed by the first respondent on 26.04.2016, creating charge over the property belongs to the petitioner, is under challenge in the present writ petition.

2. The impugned letter dated 26.04.2016 addressed to the Sub-Registrar, Vanur, would reveal that the petitioner is a guarantor and in respect of the arrears of sales tax to be paid by the Tribunal.

3. The learned counsel for the petitioner states that even as per Form - “F”, the petitioner stood as a guarantor for a sum of Rs.8,50,000/- and the first respondent has attached the entire property. Thus, the order impugned is liable to be set aside and is confined with the security extended in Form - “F”. The disputed facts regarding the quantum of security and other factors cannot be adjudicated in a writ proceedings. Such factors are to be adjudicated with reference to the original files available with the Department. If at all, the guarantee / security given by the petitioner is restricted to a sum of Rs.8,50,000/-, then the first respondent has to consider the facts with reference to the tax recovery dues and in the event of any payment by the petitioner with reference to the security, the Authorities may consider by releasing of the attachment.

4. The learned counsel for the petitioner made a submission that the petitioner is ready and willing to deposit the amount of guarantee of Rs.8,50,000/-. However, the offer must be considered by the first respondent for the purpose of release of the attachment and this Court cannot offer any opinion with reference to such disputed facts.

5. In view of the fact that the petitioner is ready to deposit the guaranteed amount as per Form - “F”, the petitioner is at liberty to submit a representation to that effect to the first respondent and in the event of receiving any such representation for release of attachment of property, the first respondent shall adjudicate the issues on merits and pass appropriate order on merits and in accordance with law by following the procedures contemplated.

6. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(IX)

//True Copy//

Sub Assistant Registrar

Pns

To

1. The Commercial Tax Officer,
   Commercial Taxes Department,
   Tindivanam, Villupuram District,
   Tamil Nadu.

2. The Sub-Registrar,
Registration Department,
Vanur, Villupuram District,
Tamil Nadu.

+1cc to the Government Pleader, (Taxes) S.R.No.34077,33005

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PCH(CO)
RGA(13/08/2021)