



WEB COPY



W.P.No.16072 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

W.P.No.16072 of 2015

and

M.P.No.1 of 2015

M/s.Karnataka Plastoo Industries (P) Ltd.,
Represented by its Director, Kiran Chand Siremal,
No.30 & 31, CMDA's Industrial Area,
Maraimalai Nagar, Chengalpet Taluk, Tamil Nadu.

... Petitioner

Vs.

1.The Tahsildhar,
Chengalpet Taluk, Tamil Nadu.

2.The Office of Zonal Joint Director General of Foreign Trade,
Ministry of Commerce & Industry,
Shastri Bhavan Annex, 4th and 5th Floor,
No.22, Haddows Road, Chennai – 600 006.

3.M/s.Tambrapani Diamond Dies & Tools Ltd.,
Represented by its Directors,
No.25, Kasturi Rangan Road,
Alwarpet, Chennai – 600 018.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dt 9.1.2015 under Sec.8 of Revenue Recovery Act passed by the 1st respondent and quash the same as against the petitioner company and direct the 1st respondent to refund the sum of



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Rs.30,000/- to the petitioner company, which they were made to pay under threat and coercion.

For Petitioner : Mr.K.G.Vasudevan

For R1 and R2 : Mrs.M.Geetha Thamaraiselvan
Special Government Pleader

ORDER

This writ petition is filed for issuance of a writ of certiorarified mandamus to call for the records in relation to the impugned order, dated 09.01.2015, passed by the 1st respondent under Section 8 of the Tamil Nadu Revenue Recovery Act, 1864 (“Revenue Recovery Act” for brevity) and quash the same and to direct the 1st respondent to refund the sum of Rs.30,000/- collected from the petitioner by coercion.

2.Brief facts that are necessary for the disposal of the writ petition are as follows :

The petitioner is a Company represented by its Director. The petitioner Company purchased a property being an Industrial Shed bearing Door No.30 & 31 in CMDA's Industrial Area, Maraimalai Nagar, comprised in Survey Nos.591 part and 561 part, Chittamanur Village, Chengalpet



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Taluk. The petitioner purchased the property by a registered sale deed, dated 02.05.2007, which is registered as Doc.No.6344 of 2007 before the Sub-Registrar's Office, Chengalpet, from M/s.Thambrapani Diamond Dies & Tools Ltd., who is the 3rd respondent in the writ petition.

3.It appears that the 3rd respondent was running a export oriented unit before selling the property to the petitioner. Even though there is no encumbrance affecting the title of the property, it appears that the 1st respondent has passed the impugned order which is an order of attachment under Section 8 of the Revenue Recovery Act. The said order reads as if the petitioner's vendor, namely, the 3rd respondent in the writ petition, is liable to pay a sum of Rs.7,69,297/- and therefore, the revenue proceedings under the Revenue Recovery Act is initiated to attach the property. The impugned order is passed on the premise that the petitioner's vendor, namely the 3rd respondent, is liable and the respondents are entitled to initiate action under the Revenue Recovery Act.

4.If the proceedings under the Revenue Recovery Act is initiated prior to the sale of the property by the 3rd respondent to the petitioner, they may proceed against the property of the 3rd respondent. In this case, the



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order of attachment is after the sale in favour of the petitioner and therefore, this Court is unable to sustain the order. When the petitioner is a *bona fide* purchaser of the property, the respondents cannot treat the property as the property of its vendor after this length of time for the purpose of Revenue Recovery Act. Since the recovery proceedings were initiated by the 2nd respondent only against the 3rd respondent, this Court is able to see that the proceedings against the property of the petitioner is illegal and cannot be permitted.

5. When the property is not in the hands of the defaulter, it cannot be proceeded against the third party who derived title long back. The crucial date of determination of ownership of the property of the defaulter would be one when order of attachment is served. The order of recovery against third respondent was passed only on 04.04.2008. In this case, the impugned order is an order of attachment, after the property itself was sold in favour of the petitioner. Therefore, this Court is unable to sustain the impugned order. Since a sum of Rs.30,000/- was collected from the petitioner and it is stated that the said amount was collected by coercion, the respondents 1 and 2 are liable to refund the said sum of Rs.30,000/- to the petitioner.



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6.The writ petition is therefore allowed and the impugned order passed by the 1st respondent, dated 09.01.2015, is set aside. The respondents 1 and 2 are directed to pay the sum of Rs.30,000/-, to the petitioner, which is stated to have been collected from the petitioner pursuant to the order of attachment. No costs. Consequently, connected miscellaneous petition is closed.

20.10.2022

mkn

Internet : Yes

Index : Yes / No

Speaking order / Nonspeaking order

To

1.The Tahsildhar,
Chengalpet Taluk, Tamil Nadu.

2.The Office of Zonal Joint Director General of Foreign Trade,
Ministry of Commerce & Industry,
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S.S. SUNDAR, J.

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