



WEB COPY

W.P.No.3525 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

**W.P.No.3525 of 2023 &
W.M.P.Nos.3561 & 3562 of 2023**

M/s.Lakshmi Engineering Works
Rep. by its Proprietrix Ms.Vijayalakshmi
New No.33(Old No.25) Thirumal Murugan Koil Street
Union Carbide Colony Nanganallur
Chennai-600 061.

... Petitioner

VS.

- 1 The Public Relation Officer
The Sub-Registrar,
Ponamallee, Melma Nagar,
Ponamallee, Chennai-600 056.
- 2 The Assistant Commissioner (ST),
Royapettah Assessment Circle,
Room No.206 2nd Floor,
Integrated Bulding for Commercial Taxes and
Registration Department South Tower,
Saidapet, Government Farm Village, Chennai - 600 035.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India
for writ of Certiorarified Mandamus calling for the records of the first



respondent in Document K.No.371/2022 dated 06.06.2022 quash the same and further direct the first respondent to remove the attachment made in Document No.5/2020 dated 09.08.2010.

For Petitioner	: Mr.V.Sundareswaran
For Respondent 1	: Mr.R.Neethi Perumal, Government Advocate
For Respondent 2	: Mr.V.Prasanth Kiran, Government Advocate

ORDER

The issue that arises for consideration in this writ petition is whether the property purchased by the petitioner under the SARFAESI proceedings can be the subject matter of subsequent attachment, on account of non payment of the statutory dues by the borrower who had availed loan prior to the purchase by the petitioner.

2. Mr.R.Neethi Perumal, learned Government Advocate accepts notice on behalf of the first respondent and Mr.V.Prasanth Kiran, learned Government Advocate accepts notice on behalf of the second respondent. By consent of both the parties, this writ petition is taken up for final disposal in the admission stage itself.



3. The petitioner purchased a property under the SARFAESI proceedings through public auction on 02.11.2009 and a sale certificate was also issued in favour of the petitioner. However, according to the petitioner, arbitrarily and illegally, subsequent to the purchase, for non-payment of the statutory dues by the erstwhile borrower, the very same property has been attached by the second respondent on 09.08.2010. The petitioner also contends that they are a bonafide purchaser and they were not aware of the statutory dues payable by the borrower to the second respondent. The petitioner has given a representation on 10.06.2022 requesting the respondents to raise the order of attachment which according to the petitioner, has been made arbitrarily and illegally. Since the said representation has not been considered till date, the petitioner has filed this writ petition.

4. Heard, Mr.V.Sundareswaran, learned counsel for the petitioner, Mr.R.Neethi Perumal, learned Government Advocate appearing for the first respondent and Mr.V.Prasanth Kiran, learned Government Advocate appearing for the second respondent.



5. Eventhough the petitioner has challenged the document K.No.371/2022 dated 06.06.2022, the learned counsel for the petitioner would now submit that the petitioner will be satisfied if the petitioner's representation referred to supra is considered on merits and in accordance with law within a time frame to be fixed by this Court, after giving due consideration to the Division Bench Judgment of this Court in the case of ***Assistant Commissioner of Customs (Bonds) vs. Annam Steels Private Limited and Ors.*** reported in ***MANU/TN/5003/2022*** which the petitioner relied upon.

6. No prejudice would be caused to the respondents, if such a direction is issued by this Court as this Court is not expressing any opinion on the merits of the petitioner's representation. It is for the respondents to consider the petitioner's representation on merits.

7. For the foregoing reasons, this Court directs the respondents to pass final orders on merits and in accordance with law on the petitioner's representation dated 10.6.2022 requesting the respondents to raise the order of attachment effected over the petitioner's property under document No.5 of 2010 dated 09.08.2010 within a period of eight weeks from the date of



receipt of a copy of this Order, after giving due consideration to the Division Bench Judgment of this Court in the case of *Assistant Commissioner of Customs (Bonds) vs. Annam Steels Private Limited and Ors.* reported in *MANU/TN/5003/2022* and after providing one personal hearing to the petitioner.

8. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

08.02.2023

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Index: Yes/No
Speaking order/Non-Speaking Order
Neutral Citation : Yes/No



To

- 1 The Public Relation Officer
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Ponamallee, Melma Nagar,
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- 2 The Assistant Commissioner (ST),
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ABDUL QUDDHOSE, J.
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