IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.14110 of 2020

Union Bank of India (E-Corporation Bank)
Rep. by its Authorised Officer/ Assistant General Manager,
Asset Recovery Management Branch,
27, Arul Manal, Whites Road,
Royapettah, Chennai-600 014. ... Petitioner

Vs.

1.The Assistant Commissioner of Income Tax,
Office of Income Tax,
Central Circle-2(1), Room No.122, First Floor,
Investigation Building 46 MG Road,
Nungambakkam, Chennai-600 034.

2.M/s.Vasan Medical Centre India Pvt. Ltd.,
No.70, West Minister Complex,
4th Floor, Dr.R.K.Salai,
Mylapore, Chennai-600 004.

3.Mr.A.M.Arun
4.Mrs.Meera Arun
5.Mr.Senthilkumar
6.Mr.V.Karthikeyan
7.G.Munusamy
8.Sub-Registrar,
Office of the Sub-Registrar,
Mylapore. ... Respondents

(R8 Impleaded vide order dated 21.03.2023 made in W.P.No.14110 of 2020 by ASMJ)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration or any other appropriate writ declaring the order of attachment bearing No.21/2016 dated 01.08.2016 passed by the 1st Respondent is subject to mortgage dated 17.07.2015 in favour of the petitioner Bank.

For Petitioner	:	Mr.S.Sethuraman
For Respondent	:	Mr.A.N.R.Jeyaprathap (for R1) Not Ready in Notice (for R2, R5 and R6) No Appearance (for R3, R4 and R7) M/s.E.Ranganayaki Additional Government Pleader (for R8)

ORDER

It is submitted by the learned counsel for the petitioner that the issues that arise for consideration stands covered by the decision of the Division Bench of this Court in the case of *State Bank of India vs. Tax Recovery Officer-I* in W.A.Nos.1512 of 2021 dated 01.09.2022 which is admitted to by the learned counsel for the respondent. It was however submitted by Mr.A.N.R.Jeya Prathap, learned Government Advocate for the 1st Respondent that the above judgment has been challenged before the Hon'ble Supreme Court. To a pointed question as to whether there is any interim order or stay, it was informed that there is no stay. In the absence of any stay of the orders of the Division Bench of this Court by the Apex Court, this Court is bound to decide the matters on the basis of the Division

Bench Order which is the law governing as on date. It may be useful to extract the relevant portion of the judgment of the Hon'ble Supreme Court in the case of *Union Territory of Ladakh and others v. Jammu and Kashmir National conference and another* reported in *2023 SCC OnLine SC 1140,* which reads as under:

> *"35....We make it absolutely clear that the High Courts will proceed to decide matters on the basis of the law as it stands. It is not open, unless specifically directed by this Court, to await an outcome of a reference or a review petition, as the case may be."*

2. In the light of the above, the writ petition stands disposed of in terms of the order of the Division Bench of this Court in W.A.No.1512 of 2021. No costs.

03.11.2023

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
Mka/ Spp

<u>MOHAMMED SHAFFIQ, J.</u>

Mka / Spp

To:

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