BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.18542 of 2023

Sivakumar ... Petitioner

vs.

1.The Income Tax Officer,
Ward 2, Ramanathapuram,
No.176, Sapthagiri Complex,
Vandikara Street,
Ramanathapuram-623 501.

2.The Principal Commissioner of
Income Tax,
Madurai, Madurai-625 002.

3.The Sub Registrar,
Office of the Sub Registrar,
Veeracholan, Virudhunagar District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the 3rd respondent to lift the attachment order, dated 18.09.2019, passed by the first respondent / Income Tax Officer under Section 281 B of the Income Tax Act, 1961, pursuant to approval of the second respondent, dated 06.09.2019, within a stipulated time that may be fixed by this Court.

For Petitioner	: Mr.Henri Tiphagne
For R1 and 2	: Mr.N.Dilip Kumar
For R3	: Mr.R.Suresh Kumar Additional Government Pleader

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O R D E R

This writ petition is filed for writ of Mandamus, to direct the 3rd respondent to lift the attachment order, dated 18.09.2019, passed by the first respondent / Income Tax Officer under Section 281 B of the Income Tax Act, 1961, pursuant to approval of the second respondent, dated 06.09.2019, within a stipulated time that may be fixed by this Court.

2. The petitioner is an assessee under the Income Tax Department. The respondents have assessed the income tax of the petitioner for the assessment year 2015-2016, 2016-2017, under various provisions of the

Act. The petitioner could not pay the tax. Hence, the respondents have attached the property. The contention of the petitioner is that if the respondents allow to sell the property, he would pay the tax from the sale proceeds and has stated in the affidavit that he would submit an undertaking to this effect.

3. On instructions, the learned Senior Standing Counsel appearing for respondents 1 and 2 submitted that if the assessee is submitting an affidavit or indemnity bond or any kind of assurance to the Court that he would pay the tax dues immediately after selling the property, then the respondents would obey the same.

4. Therefore, this Court is directing the petitioner to submit an affidavit / indemnity bond to the respondents within a period of one week from the date of receipt of a copy of this order. The respondents shall lift the attachment within a period of one week thereafter and communicate the same to the 3rd respondent. The 3rd respondent shall reverse the entry of attachment. Then, the petitioner is directed to sell the property and shall adhere to the undertaking affidavit / indemnity bond.

5.With the above said observation, the writ petition is allowed. No costs.

Index : Yes / No **21.08.2023**
Internet : Yes
NCC : Yes / No

Tmg

To

The Sub Registrar,
Office of the Sub Registrar,
Veeracholan, Virudhunagar District.

S.SRIMATHY, J

Tmg

W.P.(MD)No.18542 of 2023

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