IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

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THE HON'BLE **MS.JUSTICE P.T.ASHA**

W.P.No.36093 of 2024

A.Durairaj ... Petitioner

Vs.

1. The Inspector General of Registration,
   100, Santhome High Road,
   Raja Annamalaipuram,
   Chennai – 600 028.

2. The Principal Commissioner of Income Tax,
   Office of the Commissioner of Income Tax,
   No.3, Gandhi Road,
   Salem District.

3. Tax Recovery Officer – I,
   Income Tax Department,
   Room No.207, 2nd Floor, Annex Building,
   63, Race Course Road,
   Coimbatore - 641 018.

4. The District Registrar,
   Dharmapuri.

5. The Sub-Registrar,
   Dharmapuri Joint II,
   Dharmapuri.

6. The Deputy Registrar of Co-operative Societies,
   Dharmapuri.

7. The Dharmapuri Co-operative Town Bank Ltd.,
   63-A, Duraisamy Naidu Street,
   Dharmapuri District. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus to direct the 1st, 4th and 5th Respondent to delete the entry of Order of Attachment dated 08.05.2008, registered as Document No. 2 of 2008, on the file of the 7th Respondent and also the Entry made in Document Remarks Section in relation to the 6th Respondent's Proceedings bearing Na.Ka.No.09/2023/Sa/Pa dated 19.12.2023, in the Encumbrance Certificate in respect of the property purchased by the Petitioner in and by way of Certificate of Sale dated 04.04.2024, registered as Document No. 2072 of 2024, in the office of Joint II Sub Registrar – Dharmapuri.

For Petitioner : Mr.P.Nethaji

For R1, R4 & R5 : Mr.B.Vijay
Additional Government Pleader
For R6 & R7 : Mr.M.Muthusamy
Government Advocate

ORDER

This Writ Petition has been filed for a Mandamus to direct the 1st, 4th and 5th Respondent to delete the entry of Order of Attachment dated 08.05.2008, registered as Document No. 2 of 2008, on the file of the 7th Respondent and also the Entry made in Document Remarks Section in relation to the 6th Respondent's Proceedings bearing Na.Ka.No.09/2023/Sa/Pa dated 19.12.2023, in the Encumbrance Certificate in respect of the property purchased by the Petitioner in and by way of Certificate of Sale dated 04.04.2024, registered as Document No. 2072 of 2024, in the office of Joint II Sub Registrar – Dharmapuri.

2. It is the case of the Petitioner that the properties described herein below belongs to one Mr.P.Thangavel and his wife:-

i. Dry Agricultural land measuring 91 cents along with a mini rice mill, comprised in Survey No.393/3 of Kondampatty Village, Dharmapuri Taluk, Dharmapuri District;

ii. Dry Agricultural land measuring 29 cents comprised in Survey No.323/1 and 2 Acres 02 Cents in Survey No.323/2 of Pappinaickanahalli Village, Dharmapuri Taluk, Dharmapuri District.

iii. *Dry Agricultural land measuring 23 Cents comprised in Survey No.324/1, 3Acres 31 Cents in Survey No.324/2 and ½ share in well comprised in land measuring 2 Cents in Survey No.325/2 of Pappinaickanahalli Village, Dharmapuri Taluk, Dharmapuri District.*

3. The said Mr.P.Thangavel and his wife committed a default in the payment of income tax and the 2nd Respondent had attached the said lands along with other properties owned by Mr.P.Thangavel and his wife vide an Order of Attachment of Immovable Property dated 23.06.2010. The said attachment was also recorded by the 5th Respondent and was reflected in the encumbrance as an entry dated 15.06.2012 bearing No.1 of 2012. Since the tax arrears had not been paid by the said Mr.P.Thangavel, the 3rd Respondent had brought the property to the sale through public auction and the same was conducted on 01.03.2024. The Petitioner herein had participated in the said auction and was declared a successful bidder having bid at a sum of Rs.1,34,40,000/-. The sale was confirmed in his favour and ultimately it became absolute on 01.04.2024. The 3rd Respondent had issued a Certificate of Sale dated 04.04.2024 in favour of the Petitioner and had forwarded Certificate of Sale for registration to the 5th Respondent vide

Letter dated 15.04.2024. The 5th Respondent had also registered the Certificate of Sale as Document No.2072 of 2024. The Petitioner would submit that he has been in absolute possession and enjoyment of the said land and had also got revenue records mutated in his favour. When the Petitioner had perused the encumbrance certificate for ascertaining and verifying the entries of the Sale Certificate, he was surprised to note that the encumbrance certificate contained an entry of an attachment dated 08.05.2008 in favour of the 7th Respondent. This entry has resulted in causing confusion and hindrances. The Petitioner would submit that the Sale Certificate had been registered by the 5th Respondent without raising any objection or bringing to the notice of the Petitioner the attachment. When the Petitioner had requested the Respondents 1, 4 & 5 through representation dated 09.08.2024 to delete the outdated entry relating to the attachment by the 7th Respondent, the 5th Respondent informed the Petitioner vide Letter dated 30.08.2024 that the entry can be deleted only on orders of this Court. Aggrieved by the same, the Petitioner is before this Court.

4. Heard the learned counsel on either side and perused the materials available on records.

5. The Respondents 2 and 3 had exercised a statutory right vested upon them and brought the property to sale owing to the default in the payment of tax by the original owner Mr.P.Thangavel. The attachment had been effected on 23.06.2010 and was also entered in the encumbrance certificate. At that point of time there was no objection. Later, the Petitioner had purchased the property in public auction and the Sale Certificate was also registered at which point of time also there has been no protest petition. The encumbrance certificate would reveal that the attachment order of the Respondents 2 & 3 had been included in the remarks column against the Document No.24 of 2009. The attachment by the 7th Respondent. Thereafter, there has been yet another attachment for the income tax dues on 15.06.2012 and ultimately on 01.04.2024 the public auction has been conducted and the document registered as Document No.2072 of 2024. The records would further show that despite the attachment order of the immovable property dated 23.06.2010 being entered in the encumbrance certificate and the certificate of sale in favour of the petitioner dated 15.04.2024 which was also entered in the encumbrance certificate, there has been no protest on the part of the 7th Respondent, not even an objection/protest petition has been filed before

the 3rd respondent. Therefore, the reason for refusing to register the Sale Deed cannot be countenanced. The sale has taken place for recovery of statutory dues and the same has also been registered.

6. Therefore, the writ petition is allowed and the entries regarding the attachment shall be deleted by the 7th Respondent within a period of three (3) weeks from the date of receipt of a copy of this Order. No costs.

06.12.2024

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation :Yes/No
rgm

To

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P.T.ASHA, J.

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