IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**
W.P.No.5838 of 2025

P.Azeemunissa
No.639 Annasalai
Melvisharam Ranipet District. ..Petitioner

Vs.

1. TAX RECOVERY OFFICER-III(2)
   121 MAHATMA GANDHI ROAD, CHENNAI-600 034.

2. The Sub Registrar,
   Sholingar Road, Walajapet, Vellore 632513. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the 1st respondent to lift the attachment on the property situated within the jurisdiction of the 2nd respondent in the light of remission and extinguishment of tax outstanding demand under the Income Tax Act 1961 vide CBDT Instruction F.No.375/02/ 2023-IT Budget dated 13.02.2024 further direct the 2nd Respondent to update the Revenue Records and set free the property from encumbrance.

For Petitioner : M/s.G.Vardini Karthik
For Respondent-1 : Dr.B.Ramaswamy,
Senior Standing Counsel

Order

The petitioner has filed this Petition seeking for an issuance of a writ, in the nature of mandamus on the first respondent to lift the attachment on the property situated within the jurisdiction of the 2nd respondent in the light of remission and extinguishment of tax outstanding demand under the Income Tax Act 1961 vide CBDT Instruction dated 13.02.2024 and further, to direct the 2nd Respondent to update the Revenue Records and set free the property from encumbrance.

2. M/s.G.Vardini Karthik learned counsel appearing for the petitioner would submit that the first respondent issued a letter to the second respondent dated 24.11.1993, informing the second respondent about the initiation of recovery proceedings, in respect of income tax arrears payable by the petitioner-Firm, whereby, the petitioner's property was attached by the second respondent and was brought to public auction on 24.12.1993, however, the petitioner on receipt of such auction notice, cleared the entire tax dues and therefore, there is no impediment for the first respondent to issue appropriate direction on the second respondent to remove the attachment made on the petitioner's property, however, as on date, the petitioner's property is subjected to attachment, which necessitated the petitioner to approach this Court seeking for the aforesaid relief.

3. Dr.B.Ramaswamy, learned Senior Standing Counsel for respondent-1 would submit that since it is stated that the entire tax dues was cleared by the petitioner, appropriate direction may be issued on the first respondent, who, in turn may direct the second respondent to lift the attachment made on the petitioner's property.

4. Heard the learned counsel appearing for the petitioner and the Dr.B.Ramaswamy, learned Senior Standing Counsel for respondent-1 and perused the materials available on record. Considering the nature of relief that is to be granted herein, notice to the second respondent is dispensed with.

5. The petitioner was one of the Partners of a Firm called, "M.N.Akbar Basha and Co. The first respondent, Tax Recovery Officer issued a letter to the second respondent, Sub Registrar, Vellore dated 24.11.1993, informing the second respondent about the initiation of recovery proceedings in respect of an income tax arrears payable by the petitioner-Firm, and by virtue of the said letter, the petitioner's property was attached and brought to public auction on 24.12.1993. The petitioner, on receipt of such auction notice cleared the entire tax dues. Despite such clearance, the attachment made towards the petitioner's property has not yet been lifted, which fact, the petitioner came to understand when he made an attempt to sell the property in question.

6. In the light of the above and considering the fact that the petitioner has not made any representation seeking for lifting of attachment made by the second respondent pursuant to the direction issued by the first respondent dated 24.11.1993 and has only made an oral request, this Court is inclined to dispose of this Writ Petition with a direction to the petitioner to make a representation setting out his prayer along with required proof with regard to the settlement of tax dues, which shall be considered by the first respondent and he having satisfied with the aspect of clearance of tax dues by the petitioner, shall issue appropriate direction on the second respondent to remove the attachment made on the petitioner's property.

7. Accordingly, this Writ Petition is disposed on the aforesaid terms. No costs.

24.06.2025

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Index : yes/no
Neutral Citation : yes/no

To
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2. The Sub Registrar,
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Krishnan Ramasamy,J.,

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