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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.03.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.10574 of 2025
and
W.M.P.Nos.11909 & 11912 of 2025

Rajindra Kumar Kawad

...Petitioner

Vs.

1. The Assistant Commissioner,
   Sales Tax Officer, Anandhanapatty Circle
   4th Floor, Pitchers Road,
   Hasthampatty, Salem -7.

2. Tvl. Seema Sago and Starch Products (P) Ltd.
   Rep. by its Directors,
   No.27C, Municipal Buildings, Lorry Shed,
   Shevapet, Salem – 2.

3. Thiru B.Motilal Chowdhary,
   D.No.29, Mathura Cottage, Indira Gandhi Road,
   Alagapuram Village, Salem – 636 004. ...Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the first respondent in impugned notice in RC 3031/2015/A2 dated 31.12.2024 and to quash the same and further, to direct the first

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respondent to cancel/remove any charge, attachment, lien or encumbrance on the property situated in New Survey Ward No.E. in block No.10 in Old Town Survey No.16/2, New Town Survey No.16/2A situated in Salem District.

For Petitioner : M/s. C.Rekha Kumari
For Respondent-1 : Ms.Amirta Poonkodi Dinakaran
Government Advocate (T)

Order

Heard M/s. C.Rekha Kumari, learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (T) who takes notice on behalf of the first respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the notice issued by the first respondent dated 31.12.2024 and to quash the same and further, to direct the first respondent to cancel/remove any charge, attachment, lien or encumbrance on the property situated in New Survey Ward No.E. in block No.10 in Old Town Survey No.16/2, New Town Survey No.16/2A situated in Salem District.

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3. The learned counsel for the petitioner would submit that though the petitioner has filed this Writ Petition seeking for a larger relief, i.e. seeking quashment of the notice issued by the first respondent, Sales Tax Officer, dated 31.12.2024, thereby, attaching the petitioner's property, the learned counsel states that the petitioner has confined the relief, and would be satisfied if the reply filed by the petitioner is taken note of by the first respondent, who shall thereafter, shall proceed to pass orders. Therefore, the learned counsel seeks for appropriate direction in this regard.

4. The learned Government Advocate (T) for the first respondent fairly submitted that since the petitioner has now restricted their relief and only seeks for a direction on the first respondent to take note of the reply filed by them and to decide the issue, this Court may pass appropriate orders in that regard, in which case, the first respondent would abide by the direction issued by this Court and would pass appropriate orders within the time limit as stipulated by this Court.

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5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. The petitioner is a *bona fide* purchaser of the property in question, having purchased the same in a public auction. It is seen that the property in question initially belonged to the second respondent-Company and so as to recover statutory dues that are outstanding against the second respondent-Company, the State Bank of India initiated recovery proceedings under the SARFAESI Act against the third respondent, as, he stood as guarantor of the second respondent-Company for obtaining registration under the TNGST Act, whereby, the property in question was put to public auction and in the said auction, the petitioner herein emerged as the highest bidder and the sale was confirmed in favour of the petitioner.

6.1 Now, the grievance of the petitioner is that by virtue of the impugned notice dated 31.12.2024, the property, which was purchased by the petitioner through the aforesaid public action has been sought to be attached by the first respondent under the Tamil Nadu Revenue Recovery

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Ac. Aggrieved by the said impugned notice, the petitioner has filed a detailed reply clearly setting out all the aforesaid facts, however, as on date, the said reply has not been taken into consideration by the first respondent, and now the petitioner apprehends that he being the bona fide purchaser, having paid the entire sale consideration in good faith, may, at any point of time, would be put to hardship by means of recovery proceedings under the Tamil Nadu Revenue Recovery Act. at the hands of the first respondent

6.2 Thus, considering the fact that the petitioner has now restricted their relief, and only seeks for a direction on the first respondent to take into consideration of the detailed reply filed by him, this Court is of the view that suffice it would be to direct the first respondent to decide the issue in accordance with law based on the reply filed by the petitioner dated 10.01.2025.

7. Accordingly, this Writ Petition is disposed of with a direction directing the first respondent to consider the reply filed by the petitioner dated 10.01.2025 and shall hear the petitioner by putting a notice on him

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and thereafter, shall decide the issue in accordance with law within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. No costs. Consequently, connected Miscellaneous Petitions are closed.

26.03.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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