BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.4250 of 2025
and
WMP (MD) No.3053 of 2025

M/s.Cholamandalam Investment and
Finance Company Limited
Trichy Branch
Rep. by its Authorised Officer
M.T.Satheeshkumar ... Petitioner

-vs-

1. The Assistant Commissioner,
Karur - 2 Assessment Circle, Commercial
Tax Building, Rdo Office Campus, North
Pirathakshnam Road, Karur-639 001.

2. The Sub Registrar,
Registration Department, Melakarur,
Karur District.

3. S Rajesh Kanna

4. R Sumathra

5. M/s. One Stop to Stop,
Represented by its Authorized Signatory,
No.28a, Kamarajapuram West 2nd Street,
Senguthapuram Post, Aravakurichi,
Karur District.

6. K Kavitha ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent in GSTIN No. 33AJTPR3274P1ZA/2020-2021 dated 08.11.2024 quash the same and consequently direct the 2nd respondent to delete the attachment endorsement/entry in the encumbrance certificate created at the instance of the 1st respondent over the Sale Deeds in Document Nos. 4670 of 2017 and 8221 of 2015 registered on the file of the 2nd respondent with respect of the property in Survey No. 285 measuring to an extent of 8.38 acre and Survey No. 286 measuring to an extent of 10.65 Acre total extent of 19.03 acre in which 3.7 1/3 acres converted into house plots wherein following plots i) Wester portion plot No.3 measuring to an extent of 1000 sq.ft and ii) Western side of plot no.9 and Easter side of plot no.10 both are measuring total extent of 1400 sq.feet.

For Petitioner	:	Mr.V.Sukumar
For Respondents	:	Mr.J.K.Jayaselan Government Advocate for R1

Mr.R.Suresh Kumar
Addl. Govt. Pleader for R2

Mr.P.Dhanasekaran for R3
R4 to R6 – No appearance

ORDER

The present writ petition has been filed challenging the recovery notice issued by the first respondent dated 08.11.2024 and seeking a direction to the second respondent to delete the attachment endorsement in the encumbrance certificate created at the instance of the first respondent.

2. The case of the petitioner is that, out of the property in Survey No. 285, measuring 8.38 acres, and in Survey No. 286, measuring 10.65 acres, totaling 19.03 acres, 3.17 1/3 acres of land were converted into house plots. A few plots, measuring 1400 sq. ft. each, are situated at Aandankovil West Part Village, Manmangalam Taluk, Karur District. The respondents 3 to 5 executed various loan documents in favor of the petitioner institution and the said property is considered a "Secured asset" under Section 2(zc) of the SARFAESI Act. Due to non-payment of the loan, the loan account of the respondents 3 to 5 was classified

as a Non-performing Asset (NPA) on 05.09.2023. Following the statutory notices, an e-auction sale was conducted on 15.10.2024. The sixth respondent herein became the successful bidder and purchased the property for a sum of Rs. 57,70,000/-. Subsequently, the petitioner institution issued the sale certificate dated 09.11.2024 in favor of the sixth respondent.

3. The grievance of the petitioner is that, at this stage, the first respondent issued the impugned recovery notice dated 08.11.2024, along with GST DRC-13, stating that there is an attachment endorsement over the subject property. Due to this development, the sixth respondent has not come forward to register the sale certificate and thereby, the petitioner institution is unable to realize the sale proceeds. Accordingly, the learned counsel for the petitioner institution submitted that the petitioner institution is ready to pay the amount once the sale certificate is registered in favour of the sixth respondent.

4.The learned Government Advocate, appearing on behalf of the first respondent, submitted that the outstanding amount to be paid by the petitioner institution is Rs.35,01,070/-. However, the property was sold in the e-auction for a sum of Rs. 57,00,000/-. Therefore, as per Section 79 of the TNGST Act, 2017, read with the CGST Act, the petitioner is required to pay the remaining amount of Rs. 21,99,700/- towards the outstanding government dues. He further submitted that, by a letter dated 23.01.2025, the first respondent requested the second respondent to remove the encumbrance for Document Nos. 4670/2017 and 8221/2015, as recovery proceedings have been initiated under Section 79 of the TNGST Act, 2017, read with the CGST Act.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. Upon considering the submissions made by both parties and taking note of the fact that the petitioner institution is ready to pay the remaining amount, this Court finds it appropriate to direct the petitioner to pay the remaining amount against the outstanding government dues of Rs.21,99,700/-, within a period of four weeks from the date of receipt of a copy of this order, to facilitate the registration of the sale certificate in favour of the sixth respondent.

7. With the above directions, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

NCC : Yes / No
Index : Yes / No
PKN

26.03.2025

To:-

1. The Assistant Commissioner,
Karur - 2 Assessment Circle, Commercial
Tax Building, Rdo Office Campus, North
Pirathakshnam Road, Karur-639 001.

2. The Sub Registrar,
Registration Department, Melakarur,
Karur District.

VIVEK KUMAR SINGH, J.

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