BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.07.2025**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) Nos.18734 & 18735 of 2025
and
W.M.P.(MD) Nos.14363, 14365, 14370 and 14371 of 2025

S.J.Natural Minerals,
rep by its Partner,
T.Marirajan

... Petitioner in both W.Ps.,

/vs./

1.State Tax Officer,
State Tax Office,
Sattur.

2.The Sub Registrar,
Sattur,
Virudhunagar District.

... Respondents in both W.Ps.,

PRAYER in W.P.(MD) No.18734 of 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned letter of the 1st respondent dated 25.06.2018 in Na.Ka. A3/1224/2002 and quash the same and consequently direct the 2nd respondent to delete the entry of encumbrance made in Doc.No.L.3/2018 on 02.08.2018 upon the petitioner's property in S.Nos.707/1, 707/2, 707/3, 708/2, 709, 710, 712, 714/1, 714/2A, 714/2B, 714/2C and 715 situated in Ayan Kangarakottai Village, Vembakottai Taluk, Virudhunagar District.

PRAYER in W.P.(MD) No.18735 of 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned letter of the 1st respondent dated 25.06.2018 in Na.Ka. A3/433/99 and quash the same and consequently direct the 2nd respondent to delete the entry of encumbrance made in Doc.No.L.4/2018 on 20.07.2018 upon the petitioner's property in S.Nos.713 and 711 situated in Ayan Kangarakottai Village, Vembakottai Taluk, Virudhunagar District.

For Petitioner in both W.Ps.,	: Ms.A.Lakshmi for M/S.Polax Legal Solutions
For R1 in both W.Ps.,	: Mr.R.Suresh Kumar Additional Government Pleader
For R2 in both W.Ps.,	: Mr.D.Sasikumar Additional Government Pleader

COMMON ORDER

Mr.R.Suresh Kumar, learned Additional Government Pleader takes notice for the first respondent and Mr.D.Sasikumar, learned Additional Government Pleader takes notice for the second respondent in both the writ petitions.

2.The petitioner is the purchaser of the petition mentioned properties by a sale deed, dated 26.10.2016. They have purchased the property from their predecessors, who in turn had purchased the property from the power of attorney holder of Joolia Maran, the proprietrix of M/S.Bravo Enterprises, an assessee under the provisions of the Tamil Nadu General Sales Tax Act, 1959.

3.It appears that the said proprietary concern of Julia Maaran was in arrears of tax for the assessment years 1991-92 and 1992-93 for a total sum of Rs. 34,84,287/- and Rs.56,31,000/- respectively. The petitioner claims to have purchased these properties by a registered sale deed dated 26.10.2016.

4.It is submitted that the impugned communication seeking to register a charge and to create an encumbrance over the property is arbitrary and is therefore, liable to be quashed.

5.In this connection, the learned counsel for the petitioner has drawn attention to the decision of this Court rendered on 19.04.2023 in W.P.No.12134 of

2014 ***(M.Karpagam Vs. The Assistant Commissioner of Commercial Taxes, Coimbatore and another)***.

6.*Per contra*, the learned Additional Government Pleader for the respondents has drawn attention to the following two decisions of the Division Bench of this Court:-

> *"i)* ***D.K.Sadasivam Vs. Commercial Tax Officer, Commercial Tax Department, Dharmapuri District and others*** *reported in* ***2025 (2) CTC 233;*** *and*
>
> *ii)* ***T.Palanisamy Vs. Commercial Tax Officer, Commercial Tax Department, Dharmapuri and others*** *reported in* ***2025 (1) CTC 137."***

7.Section 53 of the Transfer of Property Act, 1882, is very clear. The Commercial Tax Department is a creditor and any sale made by a defaulter (assessee in default) is voidable at the option of the Commercial Tax Department. It is therefore for the Commercial Tax Department to take steps to declare the sale as void as it is voidable in terms of Section 53 of the Transfer of Property Act, 1882, which reads as under:-

> *"****53.Fraudulent transfer:-*** *(1) Every transfer of immoveable property made with intent to defeat or delay the creditors of the transferor shall be voidable at the option of any creditor so defeated*

or delayed.

Nothing in this sub-section shall impair the rights of a transferee in good faith and for consideration.

Nothing in this sub-section shall affect any law for the time being in force relating to insolvency.

A suit instituted by a creditor (which term includes a decree-holder whether he has or has not applied for execution of his decree) to avoid a transfer on the ground that it has been made with intent to defeat or delay the creditors of the transferor, shall be instituted on behalf of, or for the benefit of, all the creditors.

(2) Every transfer of immovable property made without consideration with intent to defraud a subsequent transferee shall be voidable at the option of such transferee.

For the purposes of this sub-section, no transfer made without consideration shall be deemed to have been made with intent to defraud by reason only that a subsequent transfer for consideration was made."

8.Therefore, liberty is given to the Commercial Tax Department to cancel the sale deed, dated 26.10.2016 as null and void and not binding on it. It is equally open for the petitioner to take the defense that the petitioner is a *bona fide* purchaser.

9.It is made clear that in case, no steps are taken by the Commercial Tax Department, no encumbrance will be registered. The petitioner is also given liberty to file a suit before the Civil Court for appropriate relief as was prayed for by the learned counsel for the petitioner. Pending such exercise, *status quo* shall be maintained.

10.With such liberty, these Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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10.07.2025

To

1.State Tax Officer,
State Tax Office,
Sattur.

2.The Sub Registrar,
Sattur,
Virudhunagar District.

C.SARAVANAN, J.

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