BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23-03-2026

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD).No.7548 of 2026
and
W.M.P(MD).Nos.6186, 6187 and 6189 of 2026

R.Bramman ... Petitioner

Vs.

1. The Tax Recovery Officer 1,
   Office of the Tax Recovery,
   Income Tax Department,
   Madurai.

2. The Sub Registrar,
   Office of the Sub-Registrar,
   Sivakasi,
   Virudhunagar District.

3. J.Arun ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the Impugned Attachment Order passed by the 1st Respondent in DIN and Letter No.ITBA/COM/F/17/2025-26/1085628529 (1) dated 5.2.2026 and quash the same and consequently direct the 2nd Respondent to remove the name of Government of India, Ministry of Finance, Income Tax Department, Office the Tax Recovery Officer in Madurai in Town

Survey Ward C, Block 3, T.S.No.63, Part (Residential Class I Type II), Ward C, Block 12, T.S.No.5/1B situated at Thiruthangal Road, Sivakasi Town, Virudhunagar District in the Encumbrance Certificate and pass such further or other orders as this Honble Court may deem fit and proper in the nature and circumstances of the case and thus render justice.

For Petitioner	:	Mr.K.Guhan
For R1	:	Mr.N.Dilip Kumar, Standing Counsel
For R2	:	Mr.D.S.Nedunchezhian Government Advocate

ORDER

The writ petition is filed challenging the impugned attachment order dated 05.02.2026 passed by the 1st respondent and consequently to direct the 2nd respondent to remove the name of Government of India, Ministry of Finance, Income Tax Department, Office the Tax Recovery Officer in Madurai situated in Town Survey Ward C, Block 3, T.S.No.63, Part (Residential Class I Type II), Ward C, Block 12, T.S.No.5/1B situated at Thiruthangal Road, Sivakasi Town, Virudhunagar District.

2. Heard Mr.K.Guhan, learned counsel for the petitioner, Mr.N.Dilip Kumar, learned Standing Counsel, who takes notice for R1 and Mr.D.S.Nedunchezhian, learned Government Advocate, who takes notice for R2.

3. The case of the petitioner is that they are the *bonafide* purchasers having purchased the property free of encumbrance from the 3rd respondent. They purchased the property by a registered Sale Deed dated 02.06.2025 and on the said date, there was no request for attachment, nor was any notice pending with the Sub-Registrar. As a purchaser, they have made every possible search and only after satisfying themselves that the property is un-encumbered, they purchased the property. Now, the property cannot now be attached by the Income Tax Department.

4. Per contra, the learned Standing Counsel and learned Government Advocate appearing for the respondents 1 and 2 would submit that in this case, the vendor of the petitioner, namely the 3rd respondent suffered an assessment order as early as on 24.03.2023 and thereafter, he preferred an appeal and the appeal was disposed of by an

order dated 08.10.2025. Thereafter, Form I.T.C.P.No.1 was issued only on 30.10.2025. Pursuant to which, the attachment order has been passed.

5. The learned counsel for the petitioner would submit that, as per Rule 11 of Schedule II to Income Tax Act, 1961, any party aggrieved by an order of attachment may approach the very same officer, viz., the 1st respondent herein, with a prayer to raise the attachment. If the 1st respondent is satisfied that a case has been made out by the claimant, it is open to him to consider the issue and pass appropriate orders thereon. Without exhausting the said alternative remedy, the present writ petition has been filed.

6. It is further submitted that the question as to whether there is any wilfulness must also be examined in light of Section 281 of the Income Tax Act, 1961.

7. I have considered the rival submissions made on either side and perused the material records of the case.

8. As rightly contended by the learned Standing Counsel for the respondents, the petitioner has an effective alternative remedy to approach the Tax Recovery Officer himself with a prayer to raise the attachment on the ground that he is a *bonafide* purchaser for value and that as on the date of issuance of the Income Tax Recovery Certificate, the property did not belong to the assessee, having already been purchased by the petitioner. The same has to be considered with reference to the claim made by the petitioner as well as whether there was any intention on the part of the 3rd respondent to evade tax.

9. This order is passed at the stage of admission itself without notice to the 3rd respondent. None of the observations made in this order shall affect the 3rd respondent with reference to the merits of the matter.

10. In view of submissions made, this writ petition is disposed of on following terms:-

i. Within two weeks from date of receipt of web copy of order, petitioner shall file an application under Rule 11 of Schedule II to Income Tax Act, 1961, to raise one order of attachment in respect of property mentioned above;

ii. It will be open for the petitioner to produce such supporting documents in support of his claim;

iii. As and when the application is filed, the same shall be treated as filed within time and shall be considered on its own merits by the 1st respondent.

iv. The 1st respondent shall conduct an enquiry by issuing notice to the petitioner or any other person as may be necessary and pass final orders thereon with reference to the claim made by petitioner herein.

v. The The aforesaid excise shall be completed within a period of four months from date of filing of the application by petitioner.

vi. No costs. Consequently, connected miscellaneous petitions are closed.

23.03.2026

Index: Yes
Speaking Order: Yes
Neutral Citation: No
rgm

To

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   Income Tax Department,
   Madurai.

2. The Sub Registrar,
   Office of the Sub-Registrar,
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D.BHARATHA CHAKRAVARTHY, J.

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