



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**Date : 27/01/2026**

**CORAM**

**The Hon`ble Mr.Justice KRISHNAN RAMASAMY**

**WP(MD). No.35877 of 2025  
and WMP(MD) Nos.28518 and 28519 of 2025  
and WP(MD) No.28386 of 2025  
and WMP(MD) Nos.22039 & 22040 of 2025**

**WP(MD) No.35877/2025**

K.Thirumalaiyandi

... Petitioner

**Vs**

1. The Inspector General of Registration,  
100, Santhome High Road, Chennai-600 028..

2. The District Registrar,,  
Office of the District Registrar Office,  
Tenkasi Registration District,  
Tenkasi District..

3. The Sub Registrar,,  
Office of the Surandai Sub Registrar Office,  
Surandai, Tenkasi District..

4. P.Kesavan,,  
S/o.Pon Pandian,  
18-7-8, Kamaraj Street,  
Sivagurunathapuram, Surandai,  
Tenkasi District.



5. Hema @ Hema Arichandran,  
W/o.Kesavan,  
18-7-8, Kamaraj Street,  
Sivagurunathapuram, Surandai  
Tenkasi District..

6. M/s. Axis Bank Limited,,  
Rep by its Authorized Officer Retail  
Asset Centre, (Rac) Registered Office  
at Trishul, 3rd Floor,  
Opp Samartheshwar Temple,  
Law Garden, Ellis Bridge.

7. The State Tax Officer,,  
Office of the Tamil Nadu Gst/  
commercial Taxes Department,  
Senkottai - Assessment Circle,  
Tenkasi District..

8. M/s.Cholamandalam Investment,  
And Finance Company Limited, Rep by its  
Authorised Signatory C54 and 55, Super  
B-4, Thiru-Vi-Ka Industrial Estate  
Guindy, Chennai 600 032..

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records relating to the Impugned Refusal Check-Slip issued by the third respondent in Na.Ka.No.205/sa.pa/2025 dated 09.09.2025 and also 7<sup>th</sup> respondent passed impugned order in his Proceedings No. Se.Mu.order No.336/A3/2025 dated 10.06.2025 and 8<sup>th</sup> respondent presented the Interim Arbitration Award dated 24.01.2024 in I.A No.1 of 2024 in ARC/CSEL/BL/1809 in Document No. 6/2024 dated 19.02.2024



on the file the third respondent to quash the same as illegal, arbitrary and Unconstitutional and direct the third respondent to register the Sale Certificate dated 01.09.2025 executed by the petitioner bank within the time stipulated by this Court.

For Petitioner : Mr.I.Abrar Mohammed Abdullah  
For Respondents : Mr.G.Mathavaselvan for R2,R4 and R5  
Mr.M.Senthilkumar for R6  
Mr.M.Lingadurai for R1 to R3  
Special Government Pleader  
Mr.R.Sureshkumar for R7  
Additional Government Pleader

**WP(MD) No.28386/2025**

M/s.Axis Bank Limited,  
Rep. by its Authorized Officer,  
Retail Asset Centre  
No.24E/1A First Floor  
S.N.High Road  
Tirunelveli District

... Petitioner

Vs

1. The State Tax Officer,  
Sengottai,  
Tenkasi District..
2. The District Registrar,,  
Tenkasi Registration District,  
Tenkasi District..
3. The Sub Registrar,,  
Surandai Sub Registration Office,  
Surandai, Tenkasi District..



4. P.Kesavan,,  
S/o.Pon Pandian, 18-7-8, Kamaraj Street,  
Sivagurunathapuram, Surandai,  
Tenkasi District-627859.

5. Hema,  
W/o.Kesavan, 18-7-8, Kamaraj Street,  
Sivagurunathapuram, Surandai,  
Tenkasi District-627859.

6. T.Thirumalaiyandi,,  
S/o Kuthalingam Door No.3/86, Amman  
Kovil Street, Lakshmipuram,  
Achankuttam, Veerakeralamputhur,  
Tenkasi - 627 861.

... Respondents

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 of the 1st Respondent impugned order vide proceedings in Se.Mu.Order No.336/A3/2025 dated 10.06.2025 and the 3rd Respondent impugned proceedings in Na.Ka.No.205/Sa.Pa/2025 dated 09.09.2025 and subsequent Refusal Check Slip No. RFL/Surandai/Book 2/39 dated 12.09.2025 and quash the same as illegal and direct the 3<sup>rd</sup> respondent to register the Sale Certificate dated 01.09.2025 executed by the Petitioner Bank within the time stipulated by this Court.

For Petitioner : Mr.M.Senthilkumar  
For Respondents : Mr.G.Mathavaselvan for R4 and R5  
Mr.M.Lingadurai for R2 and R3  
Special Government Pleader  
Mr.R.Sureshkumar for R1  
Additional Government Pleader  
No appearance for R6



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## **ORDER**

### **WP(MD) No.35877 of 2025**

This writ petition has been filed challenging the refusal check slip issued by the third respondent dated 09.09.2025 in Na.Ka.No. 205/sa.pa/2025 dated 09.09.2025 and also challenging the impugned order of the 7<sup>th</sup> respondent in his Proceedings No.Se.Mu.order No. 336/A3/2025 dated 10.06.2025 and the Interim Arbitration Award presented by the 8<sup>th</sup> respondent dated 24.01.2024 in I.A No.1 of 2024 in ARC/CSEL/BL/1809 in Document No. 6/2024 dated 19.02.2024 on the file the third respondent and to direct the third respondent to register the Sale Certificate dated 01.09.2025 presented by the 6<sup>th</sup> respondent bank in favour of the petitioner within the time stipulated by this Court.

2. Heard the learned counsel on either side.

3. The petitioner is the successful purchaser of the property in question through public auction conducted. The property in question was owned by the 4<sup>th</sup> respondent. Subsequent to the same, sale certificate was issued in favour of the petitioner on 01.09.2025 and the sale

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consideration was paid on 19.08.2025.

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4. The petitioner's case is that originally the subject property was mortgaged on 18.01.2022 and subsequently, the 4<sup>th</sup> and 5<sup>th</sup> respondents entered into subsequent mortgages on 06.05.2022 and 09.06.2022 in favour of the 6<sup>th</sup> respondent by deposit of title deeds. Due to default in payment of the loan, the 6<sup>th</sup> respondent brought the property for sale.

5. Under those circumstances, when the petitioner presented the sale certificate, the third respondent refused to register the same by virtue of the impugned order dated 01.09.2025 citing the reason that there was an attachment order passed by the 7<sup>th</sup> respondent vide order dated 10.06.2025. Hence, the petitioner is before this Court with this petition.

6. The learned Additional Government Pleader for the 7<sup>th</sup> respondent would submit that in the present case, there was GST dues for the assessment years 2017-18, 2021-22, 2022-23, and 2023-24 and for the same, orders were passed on various dates.



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7. The learned counsel would further submit that the assessment order was passed for April 2020 to 21, April 2019 to 2020, April 2018 to 2019, Nov 2023 to Nov 23, October 23 to October 23, September 2023 to September 23, Aug-23 to Aug-23, Jul-23 to Jul-23 and Jul-17 to March 18 on 08.02.2025, 31.08.2024, 27.08.2024, 08.04.2024, 28.03.2024, 28.03.2024, 28.03.2024, 28.03.2024 and 19.12.2023 respectively. Subsequent to the above assessment orders, attachment order was also passed on 10.06.2025. He would submit that all the assessment orders were passed pertaining to the assessment years 2017-18 to 2023-24. Hence, the assessment order passed will take effect from the relevant assessment years, in which, the assessment order pertains. Therefore, he would contend that in terms of Sections 81 to 83 of the GST Act, the 7<sup>th</sup> respondent will have first charge over the property. Hence, he prays for dismissal.

8. As far as the learned Special Government Pleader for the third respondent is concerned, since there were attachment orders passed by the State Tax Officer/7<sup>th</sup> respondent herein, they are not in a position to register the document and the respondents 4 and 5 are the original



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owners of the property and based on the circular dated 09.09.2021 of the Inspector General of Registration, the third respondent refused to register the document vide the impugned order. Therefore, when there is an attachment order operating against the property in question, the third respondent had rightly refused to register, which does not warrant interference of this court and accordingly, prays for dismissal of the writ petition.

9. I have given due consideration to the submissions of the learned counsel on either side.

10. In the present case, originally, the respondents 4 and 5 borrowed money from the 6<sup>th</sup> respondent and in order to secure the said loan, they have mortgaged the properties by virtue of memorandum of deposit of title deeds by registering the same on 18.01.2022, 06.05.2022 and 09.06.2022.

11. Due to failure of payment by the respondents 4 and 5, the 6<sup>th</sup> respondent brought the property for sale and the petitioner is the



successful bidder and subsequently he paid the entire sale consideration on 19.08.2025 and pursuant to which, sale certificate was issued on 01.09.2025 and when the sale certificate was presented by the petitioner for the purpose of registration, the same has been refused to be registered by virtue of the impugned order by citing that already attachment order was passed by the 7<sup>th</sup> respondent on 10.06.2025 and also another attachment order of the 8<sup>th</sup> respondent dated 19.02.2024.

12. The reason for refusal was made on the ground that there are two attachment orders dated 10.06.2025, one by the 7<sup>th</sup> respondent and another by the 8<sup>th</sup> respondent dated 19.02.2024. In the present case, the mortgage was made as early as on 18.01.2022, 06.05.2022 and 09.06.2022 for the dues of the 6<sup>th</sup> respondent and admittedly, the mortgage was made prior to the attachment orders passed by the 7<sup>th</sup> and 8<sup>th</sup> respondents and registered by the Sub Registrar. But those attachment orders were passed subsequent to the mortgage.

13. For better appreciation, it would be apposite to extract provisions of Section 81 of the GST Act as under:



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*\*Section 81. Transfer of property to be void in certain cases.-*

*Where a person, after any amount has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person:*

*Provided that, such charge or transfer shall not be void if it is made for adequate consideration, in good faith and without notice of the pendency of such proceedings under this Act or without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.”*

14. A reading of the above provision would clearly show that where a person, after any amount has become due from him, creates a charge by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer



shall be void as against any claim in respect of any tax or any other sum payable by the said person.

15. In the present case, though the assessment was pertaining to the years 2017-18 to 2023-24 and the assessment orders, after due notice, were passed on various dates ie., on 08.02.2025, 31.08.2024, 27.08.2024, 08.04.2024, 28.03.2024 and 19.12.2023 respectively. In the present case, all these orders were passed subsequent to the mortgages dated 18.01.2022, 06.05.2022 and 09.06.2022.

16. The proviso to Section 81 of the GST Act is clear. Once the assessment order is passed, the assessee is not supposed to create any encumbrance on the property. Therefore, even when no attachment order was passed and registered with the Sub Registrar, even still in terms of Section 81, once the amount is quantified and thereafter if encumbrances are made, the same shall become void. In the present case, as on the date of quantification of the amount by the Assessing Officer by virtue of the respective assessment years, the mortgage was already in existence, ie., before passing of the assessment order. Therefore, at any stretch of



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imagination, in the present case, the creation of the mortgage for the borrowing of the 4<sup>th</sup> and 5<sup>th</sup> respondents from the 6<sup>th</sup> respondent can be termed as fraudulent transaction with an intend to defraud the Government exchequer.

17. Even after the quantification of the amount, if any amount is due, if the transaction was made for adequate consideration, in which case also, without bringing it to the knowledge of the purchaser/mortgagor, the proviso to Section 81 would come to the rescue for the mortgagor, provided, however, in the case of attachment order already registered with the Sub Registrar by the State, still mortgage was created, in which case, protection available to proviso 81 will not come into rescue at all. Therefore, protection available under Section 81 will not be available in the present case to the 7<sup>th</sup> respondent.

18. Further a submission has also been made with reference to Section 82 with regard to the first charge of the property in favour of the 7<sup>th</sup> respondent. At this juncture, it is apposite to extract the provisions of Section 82, which is as follows:



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*“82. Tax to be first charge on property.—*

*Notwithstanding anything to the contrary contained in any law for the time being in force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be a first charge on the property of such taxable person or such person”*

19. A reading of the above provision would clearly show that if any amount is payable by the tax person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be first charge of the property of such taxable person or such person. Therefore, the question of payment of any tax, interest or penalty will come into picture once assessment order is passed. Hence, until passing the assessment order, the question of payment would not arise and creation of the first charge would arise, in the event of non payment of consideration as on the date of the quantification of the amount and the amount due from the concerned assessee. Therefore, in the present case, the question of creating first charge on the property would not arise because as on the date of assessment order, the property was already



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mortgaged. Therefore, the State department will have charge on the properties as a second charge, this Section 82 also will not come to the rescue of the 7<sup>th</sup> respondent in the present case unless otherwise if there is any excess amount available in sale proceed where the first charge holder sold the property, after settlement of first charge holder.

20. At this juncture, it is apposite to extract Section 83 of the Act.

*“83. Provisional attachment to protect revenue in certain cases.— (1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.*

*(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).*



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21. A reading of Section 83 of the said Act would make it clear that in order to protect the interest of the Government revenue, for the dues, if any, notice was issued, Section 83 empowers for the provisional attachment, in which case, even if the amount is not quantified, the 7<sup>th</sup> respondent can create first charge over the property, which they have not done in the present case. Therefore, even protection under Section 82 also will not be available to the 7<sup>th</sup> respondent.

22. However the 7<sup>th</sup> and 8<sup>th</sup> respondents will have right over the property, in the event of sale of the properties, by the 6<sup>th</sup> respondent and if any amount is over and above the settlement of dues of the 6<sup>th</sup> respondent, to that extent, the 7<sup>th</sup> and 8<sup>th</sup> respondents will have charge over the property. Once the property was auctioned, all the charges will come to an end. In the said property, the right of the 7<sup>th</sup> respondent also have been vanished. If at all any excess amount is available, after the realization of the dues of the 6<sup>th</sup> respondent, the 7<sup>th</sup> respondent will have right to that extent of excess amount. Such being the case, the impugned order passed by the 3<sup>rd</sup> respondent by virtue of the refusal check slip is not proper. Accordingly, the impugned refusal check slip issued by the



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3<sup>rd</sup> respondent is set aside and the petitioner is directed to represent the sale certificate and once if it is represented, the 3<sup>rd</sup> respondent is directed to register the same. In the result, WP No.35877 of 2025 stands allowed.

23. In view of the order passed in WP(MD) No.35877 of 2025, WP(MD) No.28386 of 2025 stands closed.

No costs. Consequently connected Miscellaneous Petitions are closed.

**27.01.2026**

**NCC : Yes/No**  
**Index : Yes/No**  
**RR**

**To**

1. The Inspector General of Registration,  
100, Santhome High Road,  
Chennai-600 028..

2. The District Registrar,,  
Office of the District Registrar Office,  
Tenkasi Registration District,  
Tenkasi District..

3. The Sub Registrar,,  
Office of the Surandai Sub Registrar Office,  
Surandai,  
Tenkasi District..

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**KRISHNAN RAMASAMY, J**

**RR**

**ORDER  
IN  
WP(MD) Nos.35877 of 2025  
and 28386 of 2025**

**Date : 27.01.2026**



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**W.P.(MD).Nos.35877 and 28386 of 2025**

**KRISHNAN RAMASAMY.J.,**

Today, the matter is listed under the caption “For Being Mentioned” at the instance of the learned counsel appearing for the petitioners.

2. Accepting the submissions made by the learned counsel appearing for the petitioners, the following corrections are incorporated in the appearance portions:

*In W.P.(MD).No.35877 of 2025, Mr. G. Mathavaselvan, learned counsel, is appearing only for respondent Nos.4 and 5. However, his name has been incorrectly shown as appearing for R-2, R-4 and R-6. Hence, the appearance of Mr. G. Mathavaselvan for R-2 is deleted. Further, there is an omission regarding the appearance of R-8. Hence, the Registry is directed to mark “For R-8 – No Appearance.”*

*In W.P.(MD).No.28386 of 2025, Mr.A.M. Essakiappan, learned counsel, is appearing for the sixth respondent. However, in the order dated 27.01.2026, it has been marked as “No*



*Appearance.” Hence, the Registry is directed to mark the name of Mr.A.M.Essakiappan, learned counsel, as appearing for the sixth respondent.*

3. Registry is directed to carry out the necessary corrections and issue fresh order copy to the parties concerned.

**23.02.2026**

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**KRISHNA RAMASAMY.J.,**

TSG

**W.P.(MD).Nos.35877 and 28386 of 2025**

**23.02.2026**

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