

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Monday, the Ninth day of July Two Thousand Eighteen

PRESENT

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

WP No.17088 of 2018

AND WMP.20353/2018

SMT.KUMARI KANAGAM,

[PETITIONER IN BOTH THE PETITIONS]

Vs

TAX RECOVERY OFFICER,

[RESPONDENT IN BOTH THE PETITIONS]

CENTRAL-2, 46, INCOME TAX INVESTIGATION WING,

M.G.ROAD, ROOM NO.322, 3RD FLOOR,

CHENNAI-600 034.

Writ Petitions under Article 226 of the Constitution of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased

(i) To Calling for the records of the respondent in proclamation of sale dated 12.6.2018 fixing the sale on 13.07.2018 in respect of the petitioners residential property located at Flat: G-1, Sakthi Towers, No.57/1, 8th Cross Street, Shenoy Nagar, Chennai-600 030 and quash the same as illegal and non est in law WP No.17088 of 2018.

(ii) To grant an order of stay of proclamation of sale dated 12.6.2018 issued by the respondent fixing the sale on 13.07.2018 in respect of the petitioners residential property located at Flat: G-1, Sakthi Towers, No.57/1, 8th Cross Street, Shenoy Nagar, Chennai-600 030 and all further proceedings pursuant to the proclamation of sale dated 12.06.2018 WMP.20353/2018.

Order : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of M/S.P.J.SRI GANESH, Advocate for the petitioner the court made the following order:-

Heard the learned counsel for the petitioner.

2. The challenge to the impugned proclamation of sale is on the ground that it is beyond the period of limitation as provided under Rule 68(B) of the Income Tax Rules, 1962.

3. The learned counsel for the petitioner would submit that in the present case, even according to the Deputy Commissioner of Income Tax, proceedings have attained finality from the order dated 22.8.2012 passed by the Hon'ble Division Bench this Court in TCA.No.128 of 2006, the copy of which was received on 20.11.2012. Therefore, the limitation commences from 31.3.2013 and the proclamation of sale ought to have been given on 31.3.2016, especially when there is no dispute with regard to the finality of the order passed by the Hon'ble Division Bench of this Court. Therefore, it is further submitted that the impugned proclamation of sale is barred by limitation.

4. Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice for the respondent and is directed to get instructions in the matter. Till the matter is heard and disposed of, the attachment over the property will continue. However, the subject property shall not be sold. Post on 27.7.2018.

-sd/-
09/07/2018
/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 TAX RECOVERY OFFICER,
CENTRAL-2, 46, INCOME TAX INVESTIGATION WING,
M.G.ROAD, ROOM NO.322, 3RD FLOOR, CHENNAI-
600 034.

+2 C.C. to MR.A.P.SRINIVAS, Advocate SR.NO. 8022& 8021

Order

in
WP.17088/2018

AND WMP.20353/2018

Date :09/07/2018

From 26.2.2001 the Registry is issuing certified
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