



W.P.No.41739 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 03.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.41739 of 2025

and

W.M.P.Nos.46782 and 46784 of 2025

C.Sowmya Raga

... Petitioner

Vs.

1.The Tax Recovery Officer – 3
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai – 600 034.

2.The Principal Commissioner of Income Tax -3,
Chennai,
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai – 600 034.

3.The Chief Commissioner of Income Tax – 1,
Chennai,
Income Tax Department,
No.121, Nungambakkam High Road,
Chennai – 600 034.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the Writ Petitioner on

the file of the 1st Respondent to quash the impugned communication dated 21.10.2025 in DIN & Letter No: ITBA/COM/F/17/2025-26/1081903214(1)



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seeking possession of the property sought to be auctioned and the auction notice dated 25.09.2025 located at No.238/4, 238/5C, Mevalurkuppam Main Road, Sriperumbudur Taluk, Kanchipuram, Chennai – 602 117 and the auction notice dated 25.09.2025.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mrs.S.Premalatha
Senior Standing Counsel

ORDER

Mrs.S.Premalatha, learned Senior Standing Counsel takes notice for the Respondents.

2. The Petitioner is before this Court against the impugned auction notice dated 25.09.2025. By the impugned auction notice, the auction was to be held on 28.10.2025 at 11.00 am.

3. The learned Senior Standing Counsel for the Respondents submits that indeed auction was held on 28.10.2025 and the successful bidder has also sought time for depositing the balance amount. It is noticed that earlier the Petitioner had approached this Court in W.P.No.28774 of 2019, wherein, the

Petitioner had prayed for a mandamus to direct the 2nd Respondent / Sub-



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Registrar to remove the attachment entry made by the 3rd Respondent / Tax

WEB COPY Recovery Officer over the immovable property measuring 67 cents comprised in Survey No.238/4 (65 cents) and Survey No.238/5C (2 cents) situated at Mevalurkuppam Village, Sriperumbudur Taluk, Kancheepuram District and to

direct the 2nd Respondent / Sub-Registrar to make appropriate entries stating that the said attachment has been lifted and to allow the Petitioner to enjoy the property without any hindrance.

4. By an Order dated 23.02.2024, the Writ Court dismissed the Writ Petition filed by the Writ Petitioner with the following observations:-

“... 7. Admittedly, the fourth respondent is the original owner of the property and there was a complaint against the fourth respondent before the CBI and they have also conducted raid on 16.12.2010 and they have also requested the investigation wing of the third respondent to investigate regarding the evasion of the Income Tax. They have also issued summons on 17.02.2011 under Section 131 of the Income Tax Act and issued scrutiny notice under Section 143(2) of the Income Tax for the assessment years 2009-10 and 2010-11 on 30.09.2011. Subsequently, the petitioner purchased the land from the fourth respondent only on 02.11.2011. Later, summons were issued by the third respondent and therefore, the transaction made by the fourth respondent is void. Since the sale made by the fourth respondent in favour of the petitioner is not valid one, the petitioner is not entitled to the relief sought for in the Writ Petition.”



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WEB COPY 5. Aggrieved by the aforesaid order of the Writ Petition, the Petitioner had approached the Division Bench of this Court by way of an appeal in W.A.No.1518 of 2024. The Division Bench of this Court by an order dated 10.09.2025 disposed of the appeal with the following observations:-

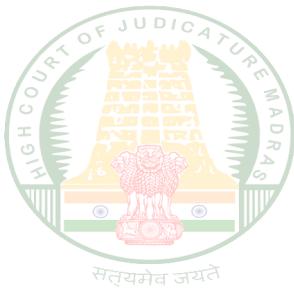
“17. In the light of the above discussion, we find no ground to interfere with the conclusion arrived by the Writ Court in the Impugned Order dated 23.02.2024 in W.P.No.28774 of 2019.

18. Accordingly, this Writ Appeal is liable to be dismissed. Liberty is however given to the Appellant / Writ Petitioner to file a civil suit to declare that the Appellant / Writ Petitioner was a th bona fide purchaser of the said property from the 4 Respondent.

19. In view of the above reasoning, this Writ Appeal stands dismissed. Consequently connected miscellaneous petitions are closed. No order as to costs.”

6. In the said order, the Division Bench of this Court has also observed as under:-

“9. The contention of the Appellant / Writ Petitioner that the Appellant / Writ Petitioner is a bona fide purchaser cannot be countenanced as the purchase of the said property was after th assessment proceedings were initiated against the 4 Respondent under the provisions of the Income Tax Act, 1961. Whether the Appellant/Writ Petitioner was a bona fide purchaser or not certainly cannot be decided in a summary proceedings under Article 226 of the Constitution of India. In case, the Appellant / Writ Petitioner wants to establish that the Appellant / Writ Petitioner was a bona fide purchaser of the aforesaid property from the 4 Respondent, it is for the Appellant / Writ Petitioner to establish the same by filing a civil suit.”



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WEB COPY 7. Aggrieved by the aforesaid order of the Court, the Petitioner had preferred an appeal under Article 136 of the Constitution of India which came up for admission on 27.10.2025 before the Hon'ble Supreme Court. The Hon'ble Supreme Court by its order dated 27.10.2025 dismissed the Special Leave Petition of the Petitioner with the following observations:-

“2. However, this order of dismissal of the special leave petition as well as dismissal of the writ petition of the petitioner by the High Court (vide the judgment and order of the Division Bench under challenge) shall not preclude the petitioner to pursue his remedy against the vendor in appropriate proceedings before the appropriate forum, in accordance with law.

3. Pending application(s), if any, shall stand disposed of.”

8. It is in this background, the Petitioner has now approached this Court.

9. The learned counsel for the Petitioner submits that order of the Hon'ble Division Bench itself came to be uploaded on 10.09.2025 and that no time has been given to the petitioner to approach the Civil Court and that the Petitioner preferred an appeal against the order dated 10.09.2025.



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WEB COPY 10. A reading of the order dated 10.09.2025 of Division Bench indicates that no time line was prescribed for the Petitioner to approach the Court. In any event, the fact remains that the Petitioner's attempt to approach the Hon'ble Supreme Court did not yield any benefit to the Petitioner as the Special Leave Petition was dismissed on 27.10.2025 by the Hon'ble Supreme Court. Since the auction has already taken place on 28.10.2025, the Respondents shall keep all further proceedings pursuant to the said auction in abeyance for a period of **60 days alone from today.**

11. Meanwhile, it is open for the petitioner to approach the Civil Court within such time to obtain any interim relief against the confirmation of sale and issuance of sale certificates. In case the Petitioner secures such order from the Civil Court, sale through the said auction need not be confirmed and shall await for further orders of the Civil Court. In case the Petitioner fails to secure any interim relief from the Civil Court, the Respondents may proceed to confirm the auction and issue sale certificate in favour of the highest bidder.



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12. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

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C.SARAVANAN, J.

Today, this case is listed under the caption “for being mentioned” at the instance of the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents after an order came to be passed on 03.11.2025 in the above Writ Petition.

2. The case of the petitioner is that the petitioner paid the Court fee on 23.11.2025 and also filed a suit before the Principal District and Sessions Court, Kanchipuram on 19.12.2025 pursuant to order dated 03.11.2025 in the above Writ Petition. However, the suit could not be numbered due to the ongoing boycott by the Bar on account of the protest by the Bar in Tamil Nadu against e-filing of proceedings.

3. The learned counsel for the petitioner submits that the petitioner cannot be found fault with, as the delay is beyond the control of the petitioner. It is further submitted that the petitioner is a *bona fide* purchaser of the property which originally belonged to M/s. Sally Thermoplastic India Limited and that the petitioner is entitled to protection under *Proviso* to Section 281(1) of the Income Tax Act, 1961.



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4. On the other hand, the learned Senior Standing counsel for the respondents submits that the sale has already been concluded on 28.10.2025 and that the Income Tax Department is holding a Demand Draft for a sum of Rs.42,00,00,000/- from the highest bidder, namely M/s.V.V. Automotive Components Private Limited.

5. The learned Counsel for the aforesaid highest bidder is also present before this Court today, though the said highest bidder is not a party to the present Writ Petition. It is submitted that the Income Tax Department is bound to issue a Sale Certificate in favour of the highest bidder, namely M/s.V.V. Automotive Components Private Limited and that the said Sale Certificate has to be registered with the Registering Authority. It is further submitted that the Income Tax Department is unable to encash the Demand Draft given by the said bidder and issue a Sale Certificate in favour of the said highest bidder.

6. The learned Senior Standing counsel for the respondents drew the attention of the Court to Rule 63 of the Second Schedule to the Income Tax Act, 1961 and Section 293 of the Income Tax Act, 1961.



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WEB COPY 7. I have considered the submissions of the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

8. Allusion to Section 63 of the Second Schedule to the Income Tax Act, 1961 is misplaced.

9. Rule 63 of the Second Schedule to the Income Tax Act, 1961 has to be read in conjunction with Rule 62 of the Second Schedule to the Income Tax Act, 1961.

10. As per Rule 62 of the Second Schedule to the Income Tax Act, 1961, the buyer / purchaser has a right to apply for cancellation of the sale before the Tax Recovery Officer on the ground that the defaulter had no salable interest in the property sold.

11. It is only in the context of Rule 62 of the Second Schedule to the Income Tax Act, 1961, Rule 63 of the Second Schedule to the Income Tax Act, 1961 has to be interpreted where no application is made for setting the sale under foregoing the Rule or where such an application is made or disallowed by



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the Tax Recovery Officer, the Tax Recovery Officer shall make an order confirming the sale and there upon the sale shall become absolute.

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12. Thus, the situation that is under contemplation in the present case is not governed by Rule 62 and 63 of the Second Schedule of the Income Tax Act, 1961.

13. As per Sub-Rule 2 to Rule 63 of the Second Schedule to the Income Tax Act, 1961, where such application is made and allowed, and where, in the case of an application made to set aside the sale on deposit of the amount and penalty and charges, the deposit is made within thirty days from the date of the sale, the Tax Recovery Officer shall make an order setting aside the sale.

14. Therefore, the contention of the learned Senior Standing Counsel for the respondents based on Rule 63 of the Second Schedule to the Income Tax Act, 1961 has to be rejected.

15. It is further noticed that the order dated 03.11.2025 passed by this Court has not been appealed against so far by the Income Tax Department. Therefore, the right that has accrued to the petitioner by virtue of the aforesaid



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order, cannot be diluted. The interests of the petitioner, the highest bidder, namely M/s.V.V. Automotive Components Private Limited as well as the Income Tax Department have to be adequately protected.

16. Therefore, to balance the interests of all the parties, the following directions are issued:

- i. The Income Tax Department is permitted to encash the Demand Draft furnished by the highest bidder, namely M/s.V.V. Automotive Components Private Limited and confirm the sale and issue a Sale Certificate in favour of the said highest bidder namely M/s.V.V. Automotive Components Private Limited without prejudice to the rights of the petitioner to assail such a sale in favour of the highest bidder.
- ii. Therefore, the petitioner is granted liberty to have the suit numbered before the Principal District and Sessions Court, Kanchipuram, as expeditiously as possible and shall endeavour to establish that the petitioner is a "***bona fide purchaser***" and is entitled to protection under the *Proviso* to Section 281(1) of the Income Tax Act, 1961.
- iii. In the aforesaid proceedings, not only the Income Tax Department represented by the Tax Recovery Officer, but also the highest bidder, namely M/s.V.V. Automotive Components Private Limited, the Directors



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of M/s.Sally Thermoplastic India Limited, and the said company itself
WEB COPY shall be made parties.

17. It is open for the petitioner to establish their rights in the manner known to law. The sale confirmed pursuant to the directions of this Court shall be subject to any Order, Judgment, or Decree that may be passed by the competent Civil Court in the proposed suit filed by the petitioner. All contentions are left open to be canvassed by all parties before the Civil Court.

18. The Registry is directed to issue a fresh order copy to the parties concerned.

05.01.2026

Neutral Citation : Yes / No

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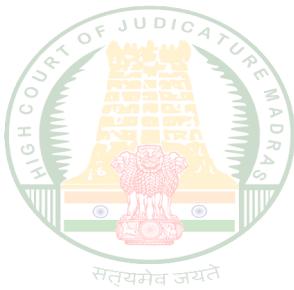
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