

CASE NO.:
Appeal (civil) 1244 of 2007

PETITIONER:
R. BALASUBRAMANIAM

RESPONDENT:
ADDITIONAL DEPUTY COMMERCIAL TAX OFFICER

DATE OF JUDGMENT: 09/03/2007

BENCH:
Dr.AR.LAKSHMANAN & ALTAMAS KABIR

JUDGMENT:
J U D G M E N T
(Arising out of SLP(C) No.23552/2005)

Dr.AR.LAKSHMANAN, J.

Leave granted.

Heard Mr.Immanuel, learned counsel for the appellant and
Mr.R.Nedumaran, learned counsel for the respondent.

We have perused the order impugned in this appeal which reads thus :-
"ORDER

This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.A.Immanuel, Advocate for the petitioner, the Court made the following order:-

Heard both side.

2 Interim stay is made absolute subject to the condition that the petitioner/appellant deposits 50% of the total tax due to the respondent within a period of eight weeks, failing which the stay granted shall stand automatically vacated."

The matters relates to the sales tax arrears of vendee-appellant. According to the appellant, the sales transaction was completed in the year 2000 and the proceedings were initiated against him by a notice issued by the Addl.Deputy Commercial Tax Officer- III, Tuticorn on 31.07.2002 and an assessment order was passed 06.12.2004 against the assessee M/s.Blesso Construction and P.J. Engineering Constructions fixing the total tax due at Rs.83,53,477/- by way of tax arrears including penalty etc. A Demand Notice was issued to the appellant-assessee R.Balasubramaniam to pay the arrears of tax due since the appellant has purchased the property and is in possession of the property in S.No.495/1A2, 495/1B2. It is not in dispute that the appellant has purchased the property in question for Rs.4,90,000/- as could be seen from the sale deed. According to the appellant, he was a bonafide purchaser. It is also not in dispute that against the dismissal of the Writ Petition filed by the appellant challenging the said assessment, the appellant preferred the Writ Appeal which is pending final disposal before the High Court and during the pendency of the Writ Appeal, the Division Bench of the High Court directed the appellant to deposit 50% of the total tax due to the respondent within a period of eight weeks, failing which the stay granted shall stand automatically vacated. Aggrieved by the said interim order, the appellant preferred the above appeal in this Court and this Court on 28.11.2005 while ordering notice to the respondent ordered attachment of the property purchased by the appellant shall continue and no further steps will be taken until further orders by this Court. Since there is an order of attachment during the pendency of the Civil Appeal in this Court, the interest of the respondent is fully safeguarded by the said Order. We, therefore, set aside the order passed by the High Court ordering deposit of 50% of the total tax due and request the High Court to dispose of Writ Appeal filed by the appellant on merits and in accordance with law.

We also make it clear that the attachment order passed by this Court will continue till the disposal of the Writ Appeal. The appeal stands disposed of accordingly.

No costs.

JUDIS