



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2016

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Petition(MD)No.3631 of 2013
and
M.P(MD)No.3 of 2013

1.G.Sekar
2.A.Ramu

... Petitioner

Vs.

1.The Inspector of Police,
Economic Offence Wing,
Trichirapalli District.

2.The Sub Registrar
Office of the Sub Registrar,
Thuraiyur taluk,
Trichy District.

... Respondents

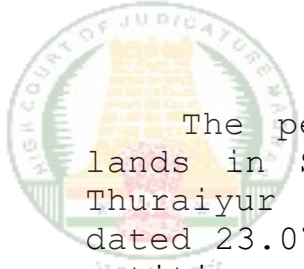
Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records of the first respondent's order in C.No./DSP/EOW II/Genl/ TRI/ 2012 dated .12.2012 signed on 09.12.2012 and subsequent order in C.No.426/DSP/EOW II/Genl/TRI/2012 dated 10.12.2012 and quash the same in respect of lands in Survey No.575/5, 530/4, 530/1, 526/4.

For Petitioner : Mr.A.Haja Mohideen
For Respondents : Mr.Aayiram K.Selvakumar
Additional Government Pleader

O R D E R

This writ petition has been filed for issuance of a Writ of Certiorari to call for the records of the first respondent's order in C.No./DSP/EOW II/Genl/ TRI/ 2012 dated .12.2012 signed on 09.12.2012 and subsequent order in C.No.426/DSP/EOW II/Genl/TRI/2012 dated 10.12.2012 and quash the same in respect of lands in Survey No.575/5, 530/4, 530/1, 526/4.

<https://hcservices.courts.gov.in/hcservices/facts> are necessary for the disposal of the writ petition follows as under:-



The petitioners state that they had jointly purchased some lands in S.No.526/4, 575/5, 530/1 and 530/4 at Irugur Village, Thuraiyur Taluk, Trichy District through a registered sale deed dated 23.07.2010 for a valuable consideration. The vendors of the petitioners were represented by their Power of Attorney Agent one P.Saravanan. The petitioners also claim that they have purchased another property in S.No.530/1 under a registered sale deed dated 23.07.2010 from one Perumal through his Power of Attorney Agent P.Saravanan. The property in S.No.530/4 was also purchased by the first petitioner through another sale deed dated 21.01.2010 from one Muthukumar and Sivaponnan through their Power of Attorney Agent. The petitioners state that they are in the possession and absolute owners right from the date of purchase and that they have sold some of the lands in S.No.526/4 in favour of one K.Raja through a registered sale deed dated 17.02.2011.

3. It appears that the Power of Attorney Agent of the petitioners' vendors promoted a Financial Company to collect money from the public in violation of the provisions of TNPID Act. It appears that several depositors, who have been cheated by the said Power of Attorney P.Saravanan, registered complaints and the first respondent, while making enquiries and investigation about the complaints given by the depositors, sent a communication to the second respondent dated 09.12.2012 and further communication dated 10.12.2012, which are impugned in the present writ petition.

4. The impugned communications sent by the first respondent to the second respondent are in the nature of requesting the second respondent nor to register any documents pertaining to the several properties including the properties of the petitioners, which are mentioned earlier. Similarly, the petitioners have challenged the said communications only on the ground that they are not involved in any offence relating to the chit transaction conducted by the Power of Attorney of their vendors and that the petitioners' properties cannot be attached under the provisions of TNPID Act. The bare facts admitted in the present writ petition reveal that the petitioners have purchased the properties under different sale deeds from the lawful owners through their power agent. The Power of Attorney has executed the documents only on behalf of his principal and hence, the sale deeds were executed and the transfers were effected only by the Principal, namely, the owner of the lands. Further, under the provisions of Registration Act and Rules framed thereunder, it is not possible for the first respondent or the second respondent to prevent the registration of a document by the registered owners of the properties. Though it is open to the first respondent to seek attachment of the properties by order of Government as contemplated under Section 3 of TNPID Act, the impugned communications cannot be sustained as



5. In the present case, the properties admittedly belong to third parties. The contention of the Government Advocate that the properties were actually purchased by the Power of Attorney and therefore, he is the real owner of the property cannot be countenanced in the present context. The transaction even in such circumstances would only lead to the conclusion that the original owners might have received their money from the Power of Attorney Agent pursuant to an agreement. Similarly, the Power of Attorney has received the money from the petitioners. The money, which was received from the petitioners, even, according to the Government Advocate, must have gone to the Power of Attorney Agent, who is the person behind the sale deeds in favour of the petitioners. In such circumstances, the first respondent can only proceed against the money received by the Power of Attorney Agent and not against the properties purchased by the innocent petitioners.

6. In that view of the matter, the impugned communications are set aside and the writ petition is allowed. It is open to the second respondent to register any document pertaining to the properties of the petitioners in accordance with law. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

skn

To

1.The Inspector of Police,
Economic Offence Wing,
Trichirapalli District.

2.The Sub Registrar
Office of the Sub Registrar,
Thuraiyur taluk,
Trichy District.

+1CC to Mr.A.Haja Mohideen, Advocate Sr.No.41482

+1CC to Spl.Government Pleader Sr.No.41252

GJM/KBM/10.8.16-3p-5c

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