



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2016

CORAM :

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Petition(MD)No.9551 of 2013

and

M.P(MD)Nos.2 and 3 of 2013

1.Sengoda Gounder

2.Vijaya

... Petitioners

Vs.

1.The Inspector of Police,
Economic Offence Wing - II,
Plot No.158, 4th North Cross Street,
Anna Nagar,
Madurai.

2.The Sub-Registrar,
Registrar Office,
Pethanaicken Palayam,
Athur Taluk,
Salem District.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned communication vide C.No.117/DSP/EOW-II/MDU/2012 dated 18.07.2012 issued by the first respondent and quash the same and direct the 2nd respondent to register the document with regard to the S.No.114/1 in Puthiragoundampalayam and S.No.292/2A New S.No.432/6 in Aethappur Village, Athur Taluk, Salem District.

For Petitioner : Mr.N.Mohan

For Respondents : Mr.Aairam K.Selvakumar G.A.,

O R D E R

This writ petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned communication vide C.No.117/DSP/EOW-II/MDU/2012 dated 18.07.2012 issued by the first respondent and quash the same and direct the 2nd respondent to register the document with regard to the S.No.114/1 in Puthiragoundampalayam and S.No.292/2A New S.No.432/6 in Aethappur Village, Athur Taluk, Salem District.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The petitioners are the husband and wife and the parents of



one S.Prakash, who is an accused in Crime No.2 of 2010 under Section 5 of TNPID Act and Section 420 IPC. It appears that the petitioners' son was working as a Manager in an establishment, by name, Ban India Forex Trading. However, the first respondent by his impugned communication dated 18.07.2012 has requested the second respondent to create an encumbrance in respect of the property in S.No.114/1 and another property in New S.No.432/6, both are located in Puthiragoundampalayam village and Aethappur Village respectively. In view of that, these properties will be shown as encumbrance so as to prohibit any alienation even by the owners.

3. Heard the learned counsel appearing for the petitioners and the learned Govt. Advocate appearing for the respondents

4. It is the specific case of the petitioners that the property in S.No.292/2A in Aethappur Village, Athur Taluk belongs to the first petitioner, by virtue of a family partition dated 01.06.1964 and that the property comprised in S.No.114/1 in Puthiragoundampalayam village, Athur Taluk belongs to the second petitioner, by virtue of a sale deed dated 01.02.1988.

5. Having regard to the provision of TNPID Act, it may be open to the State Government to attach the properties upon receipt of a complaint and after satisfying that in order to protect the interest of the depositors of any financial establishment, if it is shown that the properties have been procured either in the name of such financial establishment or in the name of anyone from and out of the deposits collected by such financial establishment. The petitioners have produced the certified copy of the partition deed dated 01.06.1964 and the sale deed obtained by the second petitioner on 01.02.1988.

6. At no stretch of imagination, the above properties acquired by the petitioners, in their individual names, long back to the offence that has been committed by the petitioners' son, can be attached by invoking the provisions of TNPID Act. In the present case, even before an order of attachment is passed by the Government, the first respondent has passed the impugned order, which is not authorized by TANPID Act.

7. In that view of the matter, this writ petition is allowed and the impugned order is set aside. No order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar



To

1.The Inspector of Police,
Economic Offence Wing - II,
Plot No.158, 4th North Cross Street,
Anna Nagar,
Madurai.

2.The Sub-Registrar,
Registrar Office,
Pethanaicken Palayam,
Athur Taluk,
Salem District.

+1 cc to Mr.N.Mohan,Advocate, Sr.No:42159

+1cc to M/S Special Government Pleader, Sr No. 42216

jam/30.08.16/SS 3/3P-5C

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