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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:26.02.2018

C O R A M

THE HON'BLE Mr.JUSTICE K. RAVICHANDRABAABU

W.P.No.4194 of 2018

and

WMP No.5139 of 2018

M/s.VGN Property Developers Pvt Ltd.,
Rep by Managing Director
Mr.V.Pratish Devadoss
No.153, Wallace Garden, 2nd Street,
Nungambakkam,
Chennai-6.

...Petitioner

vs

The Deputy Director,
Directorate of Enforcement,
2nd and 3rd floor, Murugesu Naicker Complex,
No.84, Greaves Road,
Chennai - 6.

...Respondent

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari or any other order or direction in the nature of Writ calling for the records of the respondent made in PAO No.02/2018 in ECIR No.CEZO/01/2017, dated 13.02.2018, on the file of the respondent and quash the same.

For petitioner	: Mr.S.Ramachandran
For Respondent	: Mr.N.Ramesh Special Public Prosecutor

O R D E R

The petitioner is aggrieved against the order of provisional attachment dated 13.02.2018.



2. Heard Mr.B.Kumar, learned Senior Counsel appearing for the petitioner and Mr.N.Ramesh, learned Special Public Prosecutor for the respondent.

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3. According to the petitioner, when the very allegation of loss of revenue to the Government is confined to Rs.53.50 crores in terms of waiver of interest by the State Bank of India Bank to HTL, as stated in the counter affidavit filed by the CBI before this Court in a Criminal Original Petition filed by the petitioner challenging the FIR, the respondent can consider to take some other property as security which the petitioner will immediately offer instead of attaching the subject matter property, where the petitioner has invested several hundreds of crores and also such property involved the interest of about 650 customers, who have purchased their individual shares in their land. Therefore, the learned Senior Counsel for the petitioner submitted that the petitioner's offer of providing alternative property may be considered by the respondents by raising the order of attachment made in the subject matter property.

4. On the other hand, the learned counsel appearing for the respondents submitted that after analysing all the facts and circumstances, the impugned order of attachment, that too, a provisional one was passed and therefore, the petitioner is not entitled to seek any indulgence from this Court. He further pointed out that though the petitioner has chosen to refer to the counter filed in the CrI.O.P. filed challenging the FIR, he has conveniently omitted to mention about the dismissal of the said CrI.O.P.No.21905 of 2017 by this Court on 05.12.2017.

5. Heard both sides.

6. It is not in dispute that the impugned order is only provisional attachment order. It is also not in dispute that the petitioner herein is having a right to agitate the matter before the adjudicating Authority by raising all the points raised before this Court and seek for raising the attachment. When such statutory remedy is available to the petitioner before the Adjudicating Authority, who is a fact finding authority as well, this Court is not inclined to entertain the writ petition that too, challenging the provisional order of attachment. It is further seen that the petitioner's attempt to quash the FIR also failed, as this Court dismissed the said CrI.O.P. by specifically holding that unless the investigation gets completed, this Court cannot jump into a conclusion that the petitioner is innocent bonafide purchaser and not privy to the alleged crime. Therefore, without expressing any view on the merits of the claim made in this writ petition, the writ petition is disposed of, by granting liberty to the petitioner



to approach the adjudicating authority and file appropriate application and seek appropriate relief, as provided under law. No costs. The connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS VI

//True Copy//

Sub Assistant Registrar

vri
To
The Deputy Director,
Directorate of Enforcement,
2nd and 3rd floor, Murugesu Naicker Complex,
No.84, Greaves Road,
Chennai - 6.

+2 ccs to M/s.S.Ramachandran Advocate sr 14353
+1 cc to Mr.N.Ramesh Special Public Prosecutor
High Court Madras sr 14419

W.P.No.4194 of 2018

cnr(co)
aa13/03/2018