

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.4.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.1009 of 2018
and
C.M.P.No.8518 of 2018

M/s.VGN Property Developers Pvt. Ltd.,
rep. by Managing Director,
V.Pratish Devadoss,
No.153, Wallace Garden,
2nd Street, Nungambakkam,
Chennai 600 006.Appellant/Petitioner

Versus

The Deputy Director,
Directorate of Enforcement,
2nd and 3rd Floor,
Murugesu Naicker Complex,
No.84, Greaves Road,
Chennai 600 006.Respondent/Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.2.2018 passed in W.P.No.4194 of 2018 on the file of this court.

Prayer in W.P.No.4194 of 2018:

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 dt 13.2.2018 on the file of the respondent and quash the same.

For appellant : Mr.V.Giri, Senior Counsel for
Mr.E.Sampathkumar

For respondent: Mr.G.Rajagopalan,
Additional Solicitor General assisted by
Mr.N.Ramesh

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties for some time.

2. The writ appeal has been filed by the writ petitioner challenging the order passed by the learned Single Judge declining to interfere with the impugned order of provisional attachment passed by the respondent.

3. It appears that the appellant is a purchaser of the land in question on private negotiations from the State Bank of India, who brought the land belonging to the Hindustan Teleprinters Limited (HTL), for auction sale for the default committed by the HTL in repayment of the loan availed by them from the State Bank of India. The crux of the matter is that the land in question was sold to the appellant by the Bank officials, by way of private negotiations, for a sum of Rs.272 crores as against the guideline value of Rs.387 crores, without properly resorting to the regular methods of bringing the property to public auction and thereby caused a monetary loss to the tune of Rs.115 crores which resulted in filing of a criminal case against the bank officials and the appellant. The consequential order of provisional attachment issued by the respondent was challenged in the writ petition.

4. During the course of arguments, it is submitted on behalf of the appellant that the actual loss to the Government is only Rs.53.5 crores due to the alleged wrongful waiver of interest granted by the Bank in view of the stand taken by the CBI in the counter filed by them in the Criminal Original Petition filed by the appellant seeking to quash the criminal proceedings and therefore, instead of attaching the property in question, some alternative property may be considered.

5. In the above scenario, the learned Single Judge has held in para 6 of the order as under:-

"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 bona fide 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..."

6. Having heard the learned counsel appearing for the parties and perused the order passed by the learned Single Judge, we find that the learned Single Judge has thoroughly appreciated the facts and circumstances of the case and declined to interfere with the impugned order of provisional attachment, however, granted liberty to the appellant to approach the adjudicating authority, who is the fact finding authority. We do not find any illegality or irregularity in the order passed by the learned Single Judge, warranting interference with the same, except to direct the adjudicating authority to expedite the matter and pass order on merits and in accordance with law after hearing both the parties. It is for the adjudicating authority as a fact finding authority to look into the grievance of the appellant with regard to raising of provisional attachment or whether they are genuine party or whether there is any camouflage activity. The appellant is at liberty to raise all their contentions even with regard to interim relief if any and any other reliefs before the adjudicating authority.

The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

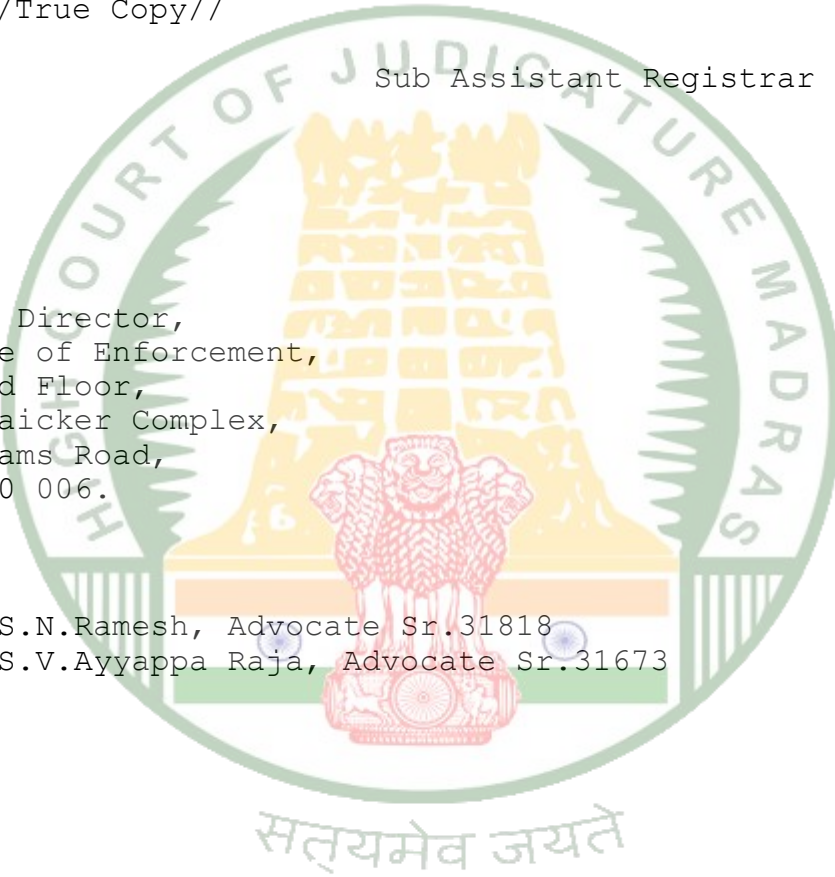
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Sub Assistant Registrar

To:

The Deputy Director,
Directorate of Enforcement,
2nd and 3rd Floor,
Murugesu Naicker Complex,
No.84, Greaves Road,
Chennai 600 006.

+1cc to M/S.N.Ramesh, Advocate Sr.31818
+2cc to M/S.V.Ayyappa Raja, Advocate Sr.31673



W.A.No.1009 of 2018

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