

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P. No. 29008 of 2019
and
W.M.P. Nos.28778 and 28780 of 2019

R.Vinoth

... Petitioner

Vs.

1. The Deputy Superintendent of Police,
Economic Offences Wing-II,
Erode, Erode District.
2. The Inspector of Police,
Economic Offences Wing-II,
Erode, Erode District.
3. The Sub Registrar,
Mettur, Salem District - 3. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of impugned order dated 30.07.2019 in Na.Ka.No.150/DSP/EOW/ ERODE/2019 issued by the 1st Respondent and quash the same in so far as petitioner is concerned, consequently direct the 3rd Respondent to register the deed of Power of attorney dated 17.09.2019 in respect of petitioner's property in Survey No.377 (Sub-division as 377/2 and 377/4), to an extent of 4.63 Acres, situated at Alamarathupatty Village, Mettur Taluk, Salem District.

For Petitioner : Mr.R.Jothimanian

For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 30.07.2019.

2.The learned counsel appearing for the petitioner submitted that the petitioner is an absolute owner of the

property in which he executed a power of attorney in favour of other person for further transaction. On the receipt of the said document, the Sub Registrar/3rd respondent returned the document for the reason that the first respondent had passed an order dated 30.07.2019 restraining from registering the document in respect of properties owned by the petitioner and other persons involved in the crime. The learned counsel appearing for the petitioner further submitted that the petitioner is no way connected with the crime registered in Cr.No.1 of 2019 on the file of the 2nd respondent. Even then, the first respondent mechanically included the petitioner's name in the impugned order and also directed the 3rd respondent not to register any document owned by the person mentioned in the impugned order dated 30.07.2019.

3.The learned Additional Public Prosecutor appearing for the respondents submitted that there are totally 92 depositors and the accused persons have cheated to the tune of Rs.2.41 crores and as such, the crime has been registered as against the four accused persons in Crime No.1 of 2019 for the offence under Sections 406, 420 of IPC and Section 5 of the Protection of Interest of Depositors (In Financial Establishment) Act, 1997. He further submitted that only after registration of the case in crime in Cr.No.1 of 2019, the property has been purchased in the name of the petitioner. Therefore, on investigation, respondents 1 and 3 found that the property owned by the petitioner also involved in the crime. Therefore, the first respondent issued the order dated 30.07.2019 to the 3rd respondent/Registration Department not to register the document involved the accused persons. However, the investigation reveals that the petitioner is also involved in the crime and in the course of investigation, the petitioner has also been added as an accused.

4.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

5.The writ petition has been filed challenging the impugned order passed by the first respondent dated 30.07.2019, thereby directing the 3rd respondent not to register any document in respect of the properties owned by the accused persons including the petitioner herein. On the complaint lodged by various depositors, the crime has been registered by the 2nd respondent in Crime No.1 of 2019 for the offence under Sections 406 and 420 of IPC and Section 5 of Tamil Nadu Protection of Interest of Depositors Act, 1997.

6.According to the prosecution, even though the petitioner is not an accused, the property owned by the

petitioner has been purchased only from after initiation of the crime proceedings. Therefore, the first respondent passed the order directing the 3rd respondent not to register any document in respect of the properties owned by the accused persons and also by the petitioner herein. There are serious allegations in the crime and also the investigation reveals that the petitioner is also going to be added as an accused. Therefore, the investigation is still pending in crime No.1 of 2019 and till completion of investigation, the order passed by the 1st respondent cannot be set aside. If the petitioner allows to execute the sale deed in respect of the property invoked by him, the entire investigation will be ended in futile. Therefore, this Court finds no merits in this writ petition. Accordingly, this writ petition is dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Superintendent of Police,
Economic Offences Wing-II,
Erode, Erode District.
2. The Inspector of Police,
Economic Offences Wing-II,
Erode, Erode District.
3. The Sub Registrar,
Mettur, Salem District - 3.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Jothimanian, Advocate, S.R.No.20343

W.P. No. 29008 of 2019
and
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rd(CO)
GN(16/07/2020)