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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13249 of 2016

1.The South Indian Bank Ltd.,  
Pondicherry Branch, 113-127,  
Mission Street (Upstairs)  
Pondicherry - 605 001.

2.The South Indian Bank Ltd.,  
Cuddalore Branch,  
No.33-B, Siva Complex,  
Imperial Road,  
Pin Code - 607 002,  
Cuddalore.

...Petitioners

Vs

1.The Government of Pondicherry  
Rep.by the Secretary to Government,  
Home Department (Police),  
Chief Secretariat,  
Beach Road, Puducherry - 605 001.

2.The District Collector,  
Office of the District Collector,  
Revenue Complex, Saram,  
Pondicherry, Pondicherry (West)-605 103.

3.The Inspector General of Police,  
No.4, Dumas Street,  
Puducherry Beach Road,  
Puducherry - 605 001.

4.The Superintendent of Police (CID)  
CID Complex, Beach Road,  
Puducherry - 605 001.

5.The Inspector of Police,  
CID Police Station,  
Iyyanar Koil Street, Iyyanar Nagar,  
Orleanpet,  
Puducherry.

... Respondents



PRAYER : Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, directing the respondents or any other officials from in any way conducting seizure of the gold articles pledged by various customers with the petitioners under the colour of conducting investigation and seizure in Crime No. 31 of 2004 (C.C. No.1 of 2011) on the file of the 5<sup>th</sup> respondent without giving an opportunity to the petitioners or without following the due process of law or for a similar direction as obtained by the various Non-Banking Financial Institutions from the Madurai Bench of this Honourable Court by invoking Art 226 of Constitution of India in a similar case.

For Petitioners : Mr.Ramkumar  
For M/s.Varam Legal

For Respondents : Mr.J.Kumaran  
Additional Government Pleader  
(Puducherry)

#### O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents or any other officials from in any way conducting seizure of the gold articles pledged by various customers with the petitioners under the colour of conducting investigation and seizure in Crime No. 31 of 2004 (C.C. No.1 of 2011) on the file of the 5<sup>th</sup> respondent without giving an opportunity to the petitioners or without following the due process of law or for a similar direction as obtained by the various Non-Banking Financial Institutions from the Madurai Bench of this Honourable Court by invoking Art 226 of Constitution of India.

2. The relief sought for in the present writ petition is absolutely misconstrued. High Court cannot entertain a criminal proceedings in a writ jurisdiction under Article 226 of the Constitution of India. Code of Criminal Procedure contemplates for disposal of the property involved in a criminal case. Aggrieved persons are bound to approach the competent Criminal Court of Law for disposal of property. Therefore, such a grievance raised relating to a criminal offence cannot be considered in a writ proceedings under Article 226 of the Constitution of India. It is an admitted fact that some customers pledged the stolen jewellerys in the petitioners Bank. Based on the complaint filed by the original owners of the jewellery, Police registered a Criminal Case in Crime No.31 of 2004 and investigations conducted and the criminal case is



pending before the competent Court of law. The petitioners Bank have initiated steps to auction the jewellery as the said customers, who pledged the jewel, became defaulters in repayment of jewel loan.

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3. The grievances of the petitioners Bank is that they are unable to auction the property in order to realise the loan amount. It is needless to state that once the jewellery pledged is identified as stolen property and a criminal case is registered, such a property became the material items in the criminal case and therefore, the properties are to be dealt with in accordance with the Code of Criminal Procedure. The stolen properties are to be produced before the competent Court for conducting trial. The original owners are to be identified by the investigating authority. Thus, the procedures as contemplated under the Code of Criminal Procedures is to be followed in order to deal with such properties. Contrarily, the Bank cannot be allowed to auction the stolen property.

4. Undoubtedly, the Petitioners Bank without knowing the fact that the jewellerys are stolen properties, granted jewel loan in favour of the customers. However, they will have to realise the loan amount in the manner prescribed and not by auctioning the stolen property after registration of a criminal case by the competent Police authorities.

5. The Banks are expected to be cautious before granting jewel loan. They are granting all such jewel loans no doubt by following certain procedures. During the course, if any person pledging the stolen jewellery and a criminal case is registered, then the Bank cannot be allowed to deal with such stolen jewelery independently and they are bound to approach the competent Criminal Court of law by following the procedures.

6. The learned counsel for the petitioners made a submission that in respect of the similar circumstances, this Court has appoint a Committee under the Chairmanship of District Legal Services Authority. Therefore, a similar Committee is to be constituted in the present case for the purpose of dealing with the jewellerys.

7. This Court is of the considered opinion that to deal with such stolen properties, appointment of a Committee cannot be a way out and the procedures as contemplated under the Code of Criminal procedure cannot be deviated and in such circumstances, there is a possibility of further irregularities or illegalities.

8. This being the factum, this Court is of the considered opinion that the petitioners have to approach the Police authorities and the competent Criminal Court of law for the



purpose of dealing with the stolen properties and in respect of recovery also, they have to follow the procedures as per the Banking Regulations.

9. Filing of a writ petition cannot be the solution in some circumstances, more specifically, when the stolen jewellerys are involved. This being the factum, the petitioner is at liberty to approach the competent authorities and the Competent Court of law for the purpose of redressing their grievances in the manner known to law.

10. If at all the petitioners Bank is aggrieved, the employees, who have violated the Banking Regulations can be prosecuted and the financial loss occurred to the petitioners Bank may be recovered from such erred officials. The jewellery loans are granted even without ascertaining the genuinity of the customers and mostly such jewellery loans are granted even for the persons, who are not holding account in the Bank. Therefore, the Banks are bound to follow the Reserve Bank of India Guidelines in this regard scrupulously. In the event of any violation, negligence or lapses, the authorities, who have granted such loans and caused financial loss to the institutions must be prosecuted under the relevant Rules in force.

11. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,  
The Government of Pondicherry,  
Home Department (Police),  
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Orleanpet, Puducherry.

+2cc to Mr.Varam Legal Advocate Sr.47985  
+1cc to the Government pleader Sr.49149

W.P.No.13249 of 2016

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srg 26/10/2021