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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.9014 of 2021

C.Sundaramoorthy

... Petitioner

Vs.

1. The Sub-Registrar,
Sub-Registrar Office - Cheyyur,
No.3/156, Salt Road,
near State Highway 115,
Cheyyur, Chengalpet-603 302.
2. The District Registrar (Admn.),
Office of the District Registrar,
Chengalpet.
3. The Inspector of Police,
District Crime Branch,
Madurai.
(R3 suo-motu impleaded vide
order dated 28.04.2021)

.. Respondents

Prayer :

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 19.03.2021 in Ref.No.Na.Ka.No.2919/Aa1 passed by the 2nd respondent in respect of the pending document P.30/2020 and quash the impugned order and to issue direction to the 1st respondent to receive the pending document P.30/2020 and register the same in accordance with law.

For Petitioner : Mr.R.Manickavel

For Respondents : Mr.K.M.D.Muhilan,
Government Advocate



O R D E R

(The case has been heard through video conference)

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The Writ Petition has been filed challenging the order passed by the 2nd respondent/District Registrar confirming the order passed by the 1st respondent refusing to register the sale deed submitted by the petitioner on the ground that in respect of the subject property, attachment proceedings is pending under the TNPID Act.

2. The brief facts leading to file the writ petition reads as follows:-

The petitioner said to have purchased the property in Survey Nos.297/3B, 124/2B, 124/2B1C, 124/2C of Nainarkuppam Village, Cheyyur Taluk, Idaikalizhindadu Town Panchayat, Sithamur Union Panchayat, Kanchipuram District, to an extent of 1 Acre and 13 Cents from one Alten Antony Mendez, who is the power of attorney of the original owners Neethimani and Menaka for a valid consideration of Rupees One Crore Fifty Lakhs. A sale deed was also executed to that effect on 17.06.2020. When it was submitted before the first respondent/Sub-Registrar for registration, the Sub-Registrar by an order dated 08.09.2020 refused to register the document P.30/2020 on the ground that the Deputy Superintendent of Police, Ramanathapuram, has sent a letter dated 16.07.2020 to them stating that the said property purchased by the petitioner is subject matter in a criminal case, and investigation is pending, hence, requested him not to register any document. Challenging the said order passed by the first respondent, the petitioner has filed an appeal before the second respondent/District Registrar. The 2nd respondent, in and by its proceedings dated 19.03.2021, confirmed the order passed by the 1st respondent stating that, a criminal case has been registered against one of the original owner of the property, namely, one Neethimani for the offences under sections 406, 420, 120(b) IPC and 5 of TNPID Act 1997 for cheating more than Rs.3,40,00,000/- from 60 depositors, and the property, which sought to be registered is one of the properties purchased by using the depositors money and hence, on the direction issued by the District Superintendent of Police, Ramnad, the Registration has been stopped by the Sub-Registrar and there is no illegality in it. Now, challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner would submit that the petitioner has purchased the property from one Alten Antony Mendez, who is the power of attorney of the original owners, Neethimani and Menaka and the above said power is coupled with interest and the petitioner has paid the entire

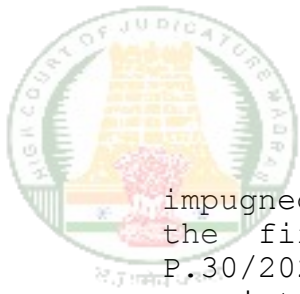


sale consideration as early as on 17.06.2020 and his vendor has also executed a sale deed in favour of the petitioner. The sale deed was presented for registration on the very same day and entire stamp duty and the registration charges have also been paid. The petitioner came to know the fact that a criminal case has been registered against the original owners of the property and the same is pending investigation and the property was not attached under TNPID Act so far. In the absence of any attachment, merely because the investigation is pending, the respondents cannot refused to register the document. That apart, the Deputy Superintendent of Police has also no power to direct the Registrar to stop registration.

4. The learned Government Advocate appearing for the respondents would submit that admittedly, the property belongs to one Neethimani, who is an accused in a criminal case registered for the offences under Sections 406, 420, 120(b) IPC and 5 of TNPID Act 1997. Now, investigation is pending and an attachment proceedings is also initiated under Section 3 of the TNPID Act. He would further submit that he has received a written instructions from the Deputy Superintendent of Police , Economic Offences Wing, Madurai, stating that one of the property is identified for attachment and attachment proceedings is under progress and the case is also pending investigation. As the said property has been purchased using the amount collected from the depositors, and attachment proceedings is also initiated under TNPID Act, the Registrar rightly refused to register the same.

5. I have considered the rival submissions and perused the materials available on records carefully.

6. It is admitted fact that the property belongs to one of the accused, who has involved in the offence under Sections 406, 420, 120(b) IPC and 5 of TNPID Act. It is also admitted that investigation is pending in that case and now the police authorities only identified this property for attachment and so far no attachment is made, and the petitioner said to have purchased the property without knowing the attachment proceedings. Further, there is no provision under Registration Act enabling the Registrar refuse to register the documents on the ground that investigation is pending under TNPID Act. That apart, if the property is transferred pending investigation, it cannot escape from attachment, and the purchaser is to face the consequences of attachment. In the said circumstances, the Sub-Registrar cannot refused to register the document based on the request made by the Investigating Officer. Hence, the impugned order passed by the 2nd respondent by confirming the order of 1st respondent is liable to be set aside.



7. Accordingly, the writ petition is allowed and the impugned order passed by the second respondent is set-aside and the first respondent is directed to register the document P.30/2020 within a period of eight (8) weeks from the date of receipt of a copy of this order, if the documents are otherwise in order. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Sub-Registrar,
Sub-Registrar Office - Cheyyur,
No.3/156, Salt Road,
near State Highway 115,
Cheyyur, Chengalpet-603 302.
2. The District Registrar (Admn.),
Office of the District Registrar,
Chengalpet.
3. The Inspector of Police,
District Crime Branch,
Madurai.

+1cc to Mr.R.Manickavel, Advocate, S.R.No.32294

W.P.No.9014 of 2021

VSNII (CO)
BE (29/07/2021)