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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.14043 & 14044 OF 2012

AND

W.M.P.NOS.1 & 2 OF 2012

N.Murali

... Petitioner in
W.P.No.14043 of 2012

V.Karikalan

... Petitioner in
W.P.No.14044 of 2012

.Vs.

1. The State of Tamil Nadu,
Rep. by the Secretary to the Government,
Home (Court-II A) Department,
Fort St. George,
Chennai - 9.
2. The Competent Authority,
The Additional Commissioner for
Land Administration,
Chennai - 5.
3. The Deputy Superintendent of Police,
EOW II, Head Quarters,
Government Estate,
Chennai - 2.
4. The Competent Authority,
The District Revenue Officer,
Thiruvallur District,
Thiruvallur.

... Respondents in
both W.P's

PRAYER IN BOTH W.P'S:-

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in G.O.Ms.360 Home (Court II A) Department dated 03.04.2001 so far as the petitioners' lands are



concerned and direct the respondents to release the petitioners' lands from attachment measuring 2578 sq.feet of land situated at plot No.138 Appa Rao layout in Survey No.300, in Harichandrapuram Village, Thirutani Taluk and measuring 4199 sq.feet of land situated at plot No.39 and 43 Appa Rao layout in Survey No.300, in Harichandrapuram Village, Thirutani Taluk respectively.

For Petitioners : Mr.S.Packiaraj
In Both W.P's

For Respondents : Mr.G.Nanmaran
R1 to R4 Special Government Pleader
In Both W.P's

O R D E R

The petitioners have filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in G.O.Ms.360, Home (Court II A) Department, dated 03.04.2001 and direct the respondents to release the petitioners' lands from the attachment.

2. The case of the petitioner in W.P.No.14043 of 2012 is that he purchased the property measuring 2578 sq.ft land from one K.Sathiyendrakumar by way of sale deed executed by his Power of Attorney one Venkatesan in favour of the petitioner in S.No.300, Harichandrapuram Village, Thirutani Taluk, vide registered Document No.56/98 dated 12.01.1998 for sale consideration, whereas the petitioner in W.P.No.14044 of 2012 purchased the property measuring 4199 sq.feet from the said K.Sathiyendrakumar by way of sale deed executed by his Power of Attorney Venkatesan in favour of the petitioner in the above said survey number for sale consideration and the same was registered in the name of his wife Shanthi vide registered Document Nos.49/98 and 50/98, dated 12.01.1998. Thereafter, the petitioners in both Writ Petitions were in possession and enjoyment of the above said properties. While that being so, the petitioners came to know that the 1st respondent passed the interim attachment of certain lands in the said village including the petitioners' properties. However, the 3rd respondent without verifying the Encumbrance Certificate, filed a report before the 2nd respondent and the same was forwarded to the 1st respondent, thereby, the 1st respondent, without serving any notice to the petitioners, passed the interim attachment. Aggrieved by the same, the petitioners filed a petition before the Special Court under TNPID Act, Chennai and the same was rejected on 11.08.2011 and appeal was preferred



before this Court in C.M.A.No.3812 of 2011 and the same was dismissed on 09.02.2012. Hence, challenging the impugned order passed by the 1st respondent, this Writ Petition has been filed.

3. The learned counsel for the petitioners submitted that already the petitioners approached the trial Court for cancellation of said attachment order passed by the 1st respondent. However, the trial Court rejected the petitioners' request on 11.08.2011 as not maintainable. Thereafter, the petitioners preferred appeal on 07.12.2011 and the same was also dismissed on the ground that the petitioners have approached the Civil Court belatedly. However, the grievance of the petitioners is that, without considering the petitioners' application, the trial Court has dismissed the same, which is not sustainable. Hence, he prays for allowing the Writ Petition.

4. The learned Special Government Pleader appearing for the respondents submitted that counter affidavit has been filed by the 3rd respondent stating that after confirming the genuineness of the documents collected from the Revenue Department and SRO, the proposal had been initiated to attach the properties and only after perusal of such documents, the Government passed the interim attachment. It is further stated that the accused one P.Venkatesan had procured the property during the year 1992 out of the funds more than crores of rupees collected from the general public by way of deposit towards M/s.Southern Enterprises. As per the available records including the confession statement, it reveals that he was the real owner of the schedule mentioned properties in G.O.Ms.No.360/2001 and the case was registered and thereafter steps were initiated for attachment after due verification. Hence, he prays for dismissal of the petition.

5. From a perusal of the materials available on record, it is alleged that the disputed properties were procured by one P.Venkatesan out of the funds collected from the depositors of M/s.Southern Enterprises and a criminal case was also registered against the said company under the TNPID act. The available records collected by the Revenue Department and SRO, Thiruvellankandu, disclose that one Sathiyendra Kumar had executed a General Power of Attorney to said P.Venketesan during the year 1992. Thereafter, the properties were developed into several plots and gradually they were in the capacity as owner of the properties and the entire sale consideration was taken away for their personal benefits, unmindful of the deposit amount and thus defrauded the general public to the tune of more than Rupees Five Crores from 38,000 depositors. Therefore, 650 number of complaints were given to EOW and a case in Cr.No.4/98 was registered on 25.02.1998 and it is being investigated.



6. Specifically, it is alleged that the petitioners are one among the purchasers colluded with the accused and acted in a clandestine manner and parted with meagre amount towards the sale consideration and registered document from the said P.Venkatesan. In fact, the petitioners have already filed application before the trial Court for cancellation of the impugned order passed by the 1st respondent and the same was rejected and thereafter appeal was filed before this Court and the same was also dismissed on the above said grounds. Since the matter was already adjudicated by the trial Court as well as by this Court, this Court under Article 226 of the Constitution of India, is not inclined to interfere with the impugned attachment order passed by the 1st respondent.

7. Accordingly, these Writ Petitions are dismissed. However, liberty is granted to the petitioners to work out their remedies before the TNPID Court in accordance with law. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu,
The Secretary to the Government,
Home (Court II A) Department,
Fort St. George,
Chennai - 9.
2. The Competent Authority,
The Additional Commissioner
for Land Administration,
Chennai - 5.
3. The Deputy Superintendent of Police,
EOW II, Head Quarters,
Government Estate,
Chennai - 2.



4. The Competent Authority,
District Revenue Officer,
Thiruvallur District,
Thiruvallur.

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+2ccs to Mr.S.Packiaraj, Advocate, S.R.Nos.12185 & 12188
+1cc to the Government Pleader, S.R.No.12315

W.P.NOS.14043 & 14044 OF 2012 AND
W.M.P.NOS.1 & 2 OF 2012

JP (CO)
PBS/21/03/2022