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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.30801 & 30802 OF 2012

AND

M.P.NOS.1 & 2 OF 2012 (2 NOS.)

K.Rajasekar

...Petitioner in W.P.No.30801 of 2012

R.Thamilselvi

...Petitioner in W.P.No.30802 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,  
Addl. 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.

...Respondents in both W.Ps.

Prayer in W.P.No.30801 of 2012: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified mandamus calling for the records of the 1st respondent in G.O.Ms.360 Home (Court II A) Department dated 03.04.2001 so far as the petitioner's land is concerned and direct the respondents to release the petitioner's land from attachment measuring 4199 1/2 sq.feet of land situated at plot No.177 and 178 Appa Rao layout in Survey No.300, in Harichandrapuram Village, Thirutani Taluk.



Prayer in W.P.No.30802 of 2012: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified mandamus calling for the records of the 1st respondent in G.O.Ms.360 Home (Court II A) Department dated 03.04.2001 so far as the petitioner's land is concerned and direct the respondents to release the petitioner's land from attachment measuring 1845 sq.feet of land in Survey No.300, in Harichandrapuram Village, Thiruttani Taluk.

For Petitioners : Mr.S.Packiaraj  
(in both W.Ps.)

For Respondents : Mr.M.Murali, GA.  
(in both W.Ps.)

#### C O M M O N O R D E R

The petitioners have filed these Writ petitions seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in G.O.Ms.360 Home (Court II A) Department dated 03.04.2001 in respect of the petitioners' lands and direct the respondents to release the same from attachment.

2. The case of the petitioners is that, the petitioner in W.P.No.30801 of 2012 purchased a land comprised in S.No.300, measuring an extent of 4199 1/2 sq. feet, situated at Harichandrapuram Village, Tirutani Taluk from one Shanthi for a sale consideration of Rs.37,800/-, vide registered Document No.1658/98 dated 08.12.1998 and the petitioner in W.P.No.30802 of 2012 purchased a land comprised in S.No.300, measuring an extent of 1845 sq. feet, situated at Harichandrapuram Village, Tirutani Taluk from one A.Raji for a sale consideration of Rs.16,335/-, vide registered Document No.1659/98 dated 08.12.1998. Originally, the above said lands were owned by one Sathiyendrakumar and subsequently, he appointed one P.Venkatesan as his Power of Attorney, vide registered Document No.879/98 dated 07.08.1992 and the said Venkatesan executed sale deed in favour of the petitioners' vendors and thereafter, the same were purchased by the petitioners from their respective vendors. Whiles, the petitioners came to know that the petitioners' properties were attached by the 2nd respondent on the basis of the communication of the 3rd respondent.

3. On further enquiry, the petitioners came to know that the 1st respondent passed an order of interim attachment of certain lands in Harichandrapuram Village, Tirutani Taluk, vide G.O.Ms.No.360 Home (Court II A) Department dated 03.04.2001, as



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M/s Southern Enterprises, a financial establishment defaulted in return of deposit made by the depositors after maturity, hence, the District Crime Branch police registered a case against its partners and the said Venkatesan being one of the partner, he was made as first accused and a criminal case was registered against him and lands in his name were attached by way of interim attachment and the petitioners lands were also attached, as if the said lands were purchased by said Venkatesan from the deposits collected from the depositors. Aggrieved by the same, the petitioners filed O.A.SR.Nos.109 & 111 of 2011 in O.A.No.6 of 2001 before the Special Court under TNPID Act, unfortunately, the said petitions were rejected without numbering. Therefore, the petitioners preferred appeal before this Court in C.M.A.Nos.3811 & 3812 of 2011 respectively, however, the same were dismissed by this Court, vide order dated 09.02.2012. Hence, the present Writ petitions were filed.

4. Learned counsel for the petitioners submitted that, the petitioners are innocent purchasers and they have purchased the above said properties for valid sale consideration from their respective vendors and not from said Venkatesan, that too even before the registration of the criminal case as against the said Venkatesan. Further, it is pertinent to note that only the petitioners' vendors have purchased the subject properties from said Venkatesan and that, the said Sathiyenthirakumar is the original owner of the above said properties and the said Venkatesan is not the owner of the said properties and he has acted only as a Power of Attorney of said Sathiyenthirakumar. He further submitted that, without verifying the above said materials, the 1st respondent has mechanically passed the present impugned attachment order by invoking the provisions of TNPID Act and attached the petitioners' properties, as if the subject properties were owned by the said Venkatesan and the said attachment was made absolute by the Special Court under TNPID Act. He further more submitted that, as no summons / notices were served on the petitioners, they were not able to attend the proceedings of the Special Court under TNPID Act and were unable to file appropriate petition. Hence, he prayed for appropriate orders.

5. Learned Government Advocate appearing for the respondents submitted that originally the disputed lands belong to the sons of one Manikka Nayakkar and thereafter, the same were sold to the said Sathiyenthirakumar and he in turn executed General Power of Attorney in favour of said Venkatesan. However, practically the said Venkatesan is the owner of the disputed properties, since he paid the entire sale consideration to said Sathiyenthirakumar and he became the default owner of the properties and the power of Attorney was made only to evade stamp duty to be paid on sale deed and the said Venkatesan was



in possession of the disputed properties since 1992. Further the said Venkatesan admitted that the disputed properties were purchased from and out of the deposit amount collected from the depositors. He further submitted that the petitioners are one among the purchasers, who colluded with the accused, hence, the proceedings have been initiated to attach the disputed properties as per Section 3 of TNPID Act. Further the said Sathiyendirakumar in his counter affidavit filed before the Special TNPID Court in O.A.No.6 / 2001 never stated that he sold the properties to the petitioners through said Venkatesan and the properties are in possession of CA / DRO Chennai.

6. Further, the petitioners have filed these Writ petitions after a lapse of 10 years since ad-interim attachment and 7 years since absolute attachment. The petitioners neither had possession of the properties nor the revenue records reveal any change of ownership in their favour and the TNPID Court issued notice to all the interested parties available on record, provided adequate opportunity to the interested parties and after analyzing the genuineness of the documents, passed the orders of absolute attachment on 17.10.2003. Further, the properties are being attached vide G.O.Ms.No.360 / 2001 dated 03.04.2001 in order to meet the liabilities of the accused who owes deposit amount to the tune of Rs.3,60,61,935/-. Hence, he prayed for dismissal of these Writ petitions.

7. Heard the arguments advanced on either side and perused the materials available on record.

8. A perusal of the available records reveal that, the petitioners' vendors have alleged purchasing the disputed properties from the said Venkatesan and it is equally not disputed that, the criminal case was registered as against the said Venkatesan and he is the 1st accused in Cr.No.4/98 registered under section 409, 420 and 120-B IPC read with Section 4, 5, 6 of Tamil Nadu Prize Chits and Money Circulation Scheme (Banning) Act, 1978 and Section 5 of TNPID Act. Further, the petitioners have already filed petitions before the Trial Court and the same were rejected, and the appeal filed in C.M.A.Nos.3811 & 3812 of 2012 challenging the said rejection were also dismissed by this Court, vide order dated 09.02.2012. It is pertinent to note that when the main criminal case itself is pending before this Court filing these writ petitions for the relief aforesaid is wholly unsustainable, moreso, when the civil miscellaneous appeal against the orders of the TNPID Court have been dismissed on merit. Therefore, the prayer sought for in the present petitions is wholly sustainable.

9. In such view of the matter, the criminal case is still



pending adjudication, this Court is not inclined to interfere with the order under challenge. However, the petitioners are at liberty to workout the remedy in the manner known to law, after disposal of the criminal case.

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10. Accordingly, these Writ petitions are dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary to the Government,  
The State of Tamil Nadu  
Home (Court II A) Department,  
Fort St. George, Chennai-9.
2. The Competent Authority,  
Addl. 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.

+2ccs to Mr.S.Packiaraj, Advocate, S.R.No.12186, 12187  
+1cc to the Government Pleader, S.R.No.13071

W.P.Nos.30801 & 30802 of 2012  
and  
M.P.Nos.1 & 2 of 2012 (2 Nos.)

GPL(CO)  
PM/21/06/2022