



W.P.No.33688 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.33688 of 2015

And

M.P.Nos.1 to 3 of 2015

B.Nagi Reddy

... Petitioner

Vs.

1.State of Tamil Nadu

Rep. by The Secretary to Government,
Home (Courts – 2A) Department,
Law Department,
Fort St.George,
Chennai – 600 009.

2.The Competent Authority /

District Revenue Officer,
Rajaji Salai,
Chennai – 600 001.

3.The Deputy Superintendent of Police,

Economic Offences Wing – II,
Guindy,
Chennai – 600 032.

4.The Sub Registrar,

Sub Registrar Office,
Ashok Nagar,
Chennai – 600 083.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to



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issue a Writ of Certiorarified Mandamus calling for the records of the first respondent by G.O.Ms.No.917, dated 16.07.1998 and quash the same to the extent of the property bought by the petitioner i.e.Flat No."A" Ground Floor, 995 sq.ft. situated at Plot No.B, 132, Door No.34, First Avenue, Ashok Nagar, Chennai 600 083, registered as Doc. No.1409 of 2015 at fourth respondent's office and direct the fourth respondent not to give any effect to the letter of second respondent dated 12.08.2015 relating to the petitioner property morefully described in the petition.

For Petitioner : Ms.K.Aparna Devi
for M/s.P.Subba Reddy

For Respondents : Mr.U.Bharanidharan for R1 to R3
Additional Government Pleader
Mr.E.Vijay Anand for R4

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent by G.O.Ms.No.917, dated 16.07.1998 and quash the same to the extent of the property bought by the petitioner i.e.Flat No."A" Ground Floor, 995 sq.ft. situated at Plot No.B, 132, Door No.34, First



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Avenue, Ashok Nagar, Chennai 600 083, registered as Doc. No.1409 of 2015 at fourth respondent's office and direct the fourth respondent not to give any effect to the letter of second respondent dated 12.08.2015 relating to the petitioner property.

2.The case of the petitioner is that the petitioner is the bonafide purchaser of one of the property attached under G.O.Ms.No.917 dated 16.07.1998 and he purchased the same vide sale deed dated 27.05.2015. The grievance of the petitioner is that though the property was attached as early as in the year 1998 and the attachment order was made absolute during the year 2000, the same was not communicated to the Sub Registrar Office, Ashok Nagar, till he purchased the property and hence, he was unaware of the attachment order. Hence, the petitioner has filed this writ petition seeking to quash the attachment order to the extent of the property bought by him.

3.The learned counsel appearing for the petitioner submitted that the petitioner is the bonafide purchaser of the subject property. Prior to purchase of the property, the petitioner verified the



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encumbrance certificate, in which, two encumbrances were found, one by the Income Tax Department and another by the C.I.D. Police, Pondicherry. After lifting the two attachments, the petitioner entered into sale agreement on 21.04.2014. Thereafter, the petitioner issued public notice on 30.04.2014 and he purchased the property on 27.05.2015. After purchase of the property, the petitioner came to know about the attachment order.

4.The learned counsel appearing for the petitioner further submitted that immediately thereafter, the petitioner made application to the second respondent on 27.08.2015 and the second respondent vide communication dated 07.09.2015 informed the petitioner that the Government in G.O.Ms.No.917, Home (Courts IIA) Department, dated 16.07.1998 had attached the land in 1/8 undivided share of 2 Grounds and 200 sq.ft. Ground Floor 996 sq.ft. in T.S.No.13, Block No.70, Kodambakkam Village, Mambalam Taluk in Building No.34, 1st Avenue, Ashok Nagar, Chennai 600 083, belonging to defaulted financial institution Tvl.Devi Gold House and subsequently made absolute by the Special Court under the TNPID Act in O.A.No.11 of 1999 dated 26.05.2000 and the Special Court under the TNPID Act in E.P.No.11 of 2000 in O.A.No.11 of 1999 dated



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18.08.2000 had ordered for sale of

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property through public auction and to disburse the sale proceeds to the aggrieved depositors of the defaulted financial institution. Immediately thereafter, the petitioner filed this writ petition.

5.The learned counsel appearing for the petitioner further submitted that the attachment order was passed as early as in the year 1998 and the same was made absolute during the year 2000, however, the same was not communicated to the Registration Department and hence, it did not reflect in the encumbrance certificate. In the absence of the said encumbrance, the petitioner bonafidely purchased the property. The learned counsel further submitted that this Court in catena of judgments have held that if the competent Authority has not communicated the encumbrance and if the person purchase the property without knowledge of any encumbrance, it is valid one. Hence, the petitioner's purchase of the subject property is valid one.

6.The learned Additional Government Pleader submitted that one N.M.Karunakaran was running a financial institution in the name



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of Devi Gold House and collected deposit from the general public and

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since the said financial institution was unlikely to return the deposits collected, the Government ordered ad-interim attachment of the property vide G.O.Ms.No.917, Home (Courts IIA) Department, dated 16.07.1998 and the attachment order was also published in the Government Gazette. Thereafter, the attachment order was made absolute by by the Special Court under the TNPID Act in O.A.No.11 of 1999 dated 26.05.2000 and the Special Court under the TNPID Act in E.P.No.11 of 2000 in O.A.No.11 of 1999 dated 18.08.2000 had ordered for sale of property through public auction and to disburse the sale proceeds to the aggrieved depositors of the defaulted financial institution.

7.The learned Additional Government Pleader further submitted that the petitioner's vendor participated in the entire proceedings, however, he has not informed anything about the same to the petitioner and suppressing the order of attachment, he has alienated the property in favour of the petitioner. Once attachment order is passed, unless it is cancelled or annulled by any competent Court, purchasing the property under attachment is not valid. Further, the



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remedy available to the petitioner is before the competent civil Forum as against his vendor and filing writ petition questioning the attachment order is not sustainable one.

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

9.The facts in the present case is not in dispute. Admittedly, the petitioner's vendor committed default in making payment to the depositors. Hence, the depositors made complaint before the law enforcing agency, pursuant to which, the petitioner's vendor's property was attached vide G.O.Ms.No.917, Home (Courts IIA) Department, dated 16.07.1998 and the attachment order was also published in the Government Gazette.

10.It is also admitted that the attachment order was made absolute by the Special Court under the TNPID Act in O.A.No.11 of 1999 dated 26.05.2000 and the Special Court under the TNPID Act in E.P.No.11 of 2000 in O.A.No.11 of 1999 dated 18.08.2000 had ordered for sale of property through public auction and to disburse the sale proceeds to the aggrieved depositors of the defaulted



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financial institution.

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11.The petitioner purchased the property only in the year 2015 after a lapse of 15 years. Though the attachment order was not communicated to the Registration Department, it was published in the Government Gazette and without verifying, the petitioner purchased the property. Hence, the prayer sought for by the petitioner in this writ petition cannot be granted.

12.The writ petition is accordingly dismissed. However, liberty is granted to the petitioner to initiate appropriate proceedings against the petitioner's vendor in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No



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