

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.06.2022

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THE HON'BLE Mr.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.23828 of 2021

and

W.M.P.Nos.25092, 25093 & 25094 of 2021

1.A.Aruchamy

2.Maragatham

...Petitioners

Vs.

1. The Inspector of Police,
District Crime Branch,
Tiruppur,
Crime No.03 of 2020.
Tiruppur District.

2. The Sub Registrar,
Avinashi SRO,
Tiruppur District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ, Order or direction specifically writ in the nature of Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 28.08.2020 (furnished on 27.09.2021) passed by the 1st respondent, quash the same and consequently, forbear the respondents from interfering with the petitioner's property right to property measuring 8.86 Acres comprised in S.F.No.18/2, Kuppandampalayam Village, Avinashi Taluk, Tiruppur district.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.L.Baskaran
Government Advocate (Criminal Side)

ORDER

This Writ petition is filed to issue a Writ, Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 28.08.2020 (furnished on 27.09.2021) passed

by the 1st respondent, quash the same and consequently, forbear the respondents from interfering with the petitioners' property right in respect of the property measuring 8.86 Acres, comprised in S.F.No.18/2, Kuppandampalayam Village, Avinashi Taluk, Tiruppur district.

2.The learned counsel for the petitioners submitted that, when the criminal case is pending, the investigation officer had addressed the Sub-Registrar, Tiruppur not to register documents arising out of the sale deed of the petitioners in Survey No.18/2. Aggrieved by the same, the petitioners had come before this Court seeking direction under Article 226 of the Constitution of India. The learned counsel for the petitioners relied on the rulings in (i) 2016 (1) CWC 664 (Madras High Court) [G.S.Senthilnathan Vs. The Deputy Superintendent of Police, Economic Offences Wing - II, Namakkal, Namakkal District], (ii) (2019) 20 Supreme Court Cases 119 [Nevada Properties Private Limited Vs. State of Maharashtra and another], (iii) (2021) 6 Supreme Court Cases 707 [Opto Circuit India Limited Vs. Axis Bank and Others] and in the light of the above said rulings, it is the contention of the learned counsel for the petitioners that the police officer / Investigation Officer has no power to direct the Revenue Authorities or Registration authorities not to register the documents. As against those decisions, the first respondent had addressed the Sub-Registrar, Avinashi. Therefore, the petitioners seek indulgence of this Court seeking direction against the respondents. At this stage, Mr.L.Baskaran, the learned Government Advocate, (Criminal Side), submits that the investigation had been subsequently transferred to the Economic Offences Wing, Coimbatore, by the proceedings of the Superintendent of Police, Tiruppur. Therefore, the learned Government Advocate, (Criminal Side) submits that the petition as such, is not maintainable, since the investigation had been transferred and the provisions of the Tamil Nadu Protection of Interest of Depositors in Financial Establishment Act, has to be invoked. Therefore, the learned Government Advocate, (Criminal Side), submitted that the petitioner has to amend the petition by impleading the Economic Offence Wing, Coimbatore.

3.By way of rejoinder to the submission of the learned Government Advocate, the learned counsel for the petitioners insisted that this Court can pass appropriate orders. Though this Writ Petition was filed on 25.10.2021, then this case is posted for hearing only recently. The superintendent of Police had transferred the case to the file of the Economic Offences Wing, Coimbatore. Therefore, the ingredients of this petition and the contention of the learned counsel for the petitioners in the light of the reported rulings had to be accepted as maintainable.

4.In the light of the above submissions and taking into consideration the copies of the documents annexed along with typed set filed in support of the Writ Petition, the submissions of the learned counsel for the petitioners are accepted by this Court. Based on the rulings relied on by him, the impugned order directing the Sub-Registrar, not to register documents based on the sale deeds of the petitioners is found un-warranted and the same is set aside.

5.Therefore, to prosecute the case by way of further proceedings, the petitioners shall approach the Court concerned regarding the transfer of the case to the file of the EOW, Coimbatore.

6.With the above direction, this Writ Petition is allowed to the extent indicated above.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
District Crime Branch,
Tiruppur,
Crime No.03 of 2020.
Tiruppur District.
2. The Sub Registrar,
Avinashi SRO,
Tiruppur District.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.37389

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SSD(CO)
UMA(20/07/2022)