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W.P.No.29827 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.12.2022

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH  
AND  
THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P.No.29827 of 2022  
AND  
W.M.P.No.29218 of 2022

R.Rajendhran

.. Petitioner

Vs.

1.The Joint Director  
Directorate of Enforcement  
Shastri Bhavan  
Haddows Road, Chennai-6

2.The Deputy Director  
Directorate of Enforcement  
Madurai

3.The Sub Registrar  
Sub Registrar No.IV  
Madurai South Registration  
Madurai

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus calling for the records of the 1<sup>st</sup> respondent in file No.ECIR/MDSZO/04/2018 dated 12.01.2021 and quash the same and consequently direct the 3<sup>rd</sup> respondent to permit the petitioner to sell, mortgage or otherwise alienate his lands to an extent of 1919 sq.ft. situated in survey



W.P.No.29827 of 2021

No.68/5C (Plots No.20 and 21) in Boothakudi Village in Madurai Sub  
Registration District.

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For Petitioner : Mr.V.Vijayashankar

For R1 & R2 : Mr.Rajnish Pathiyil  
Special Public Prosecutor (ED)

For R3 : Mr.S.John J. Raja Singh  
Addl. Government Pleader

### **ORDER**

[Made by P.N.PRAKASH, J.]

Seeking quashment of the provisional attachment order dated 12.01.2021 passed by the 1<sup>st</sup> respondent in file No.ECIR/MDSZO/04/2018, this writ petition has been filed.

2. The short facts that are required for deciding this writ petition are as under:

2.1. One Mahmooda Banu, who had purchased the property measuring 1,919 sq.ft. situated in Survey No.68/5C (Plot Nos.20 and 21) in Boothakudi Village, Madurai South registration district, from Muthupandi Kannan, through a sale deed dated 11.06.2014, which was registered as document No.5263 of 2014, sold the said property to the petitioner, *vide* sale deed dated 29.10.2014 registered as document No.9696 of 2014 on the file of the 3<sup>rd</sup> respondent.



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2.2. The petitioner was in peaceful possession and enjoyment of the property. When the petitioner wanted to sell the property for meeting his family expenses, he approached the 3<sup>rd</sup> respondent and was shocked to learn that his property was under attachment by the Enforcement Directorate *vide* order dated 12.01.2021. After conducting some enquiries, the petitioner came to know that the Enforcement Directorate has wrongly attached his property and therefore, the present petition has been filed for raising the attachment and other attendant reliefs.

3. On notice, Mr.Rajnish Pathiyil, learned Special Public Prosecutor, took instructions from the Enforcement Directorate and submitted a communication dated 21.12.2022 from the Deputy Director, Enforcement Directorate, Madurai, wherein, in paragraph 2, it is stated as follows:

“2. This office is in receipt of a copy of writ petition (W.P.No.29827 of 2022) filed by Shri Rajendran before the Hon'ble Madras High Court, wherein, the petitioner has claimed that his property was wrongly attached and had, therefore, prayed for a relief of quashing the aforementioned PAO. From the perusal of the facts brought out in the writ petition and the relevant property documents, it was seen that due to typographical error, document No.5263 of 2014 was erroneously mentioned in the said provisional attachment order instead of document No.5263 of 2015 in the schedule to the PAO No.01 of 2021.”



4. Thus, a reading of the above shows that the Enforcement Directorate had intended to attach the above property in document No.5263 of 2015 on the file of the 3<sup>rd</sup> respondent and inadvertently, the document number was given as 5263 of 2014, on account of which, the records in the 3<sup>rd</sup> respondent office reflects, as if the property of the petitioner has been attached.

5. The learned Special Public Prosecutor submitted that the provisional order of attachment has also been confirmed by order dated 22.12.2021 by the adjudicating authority. A copy of the provisional attachment order and confirmation has been furnished to the learned counsel for the petitioner, across the bar.

6. That apart, the Enforcement Directorate has also filed a complaint in Spl.C.C.No.6 of 2021 against M/s.Disc Assets Lead India Limited, its Directors and other entities, for the offences under Section 3 read with Section 4 of the PML Act. However, the learned Special Public Prosecutor pleaded helplessness by submitting that the Enforcement Directorate has become *functus officio*, after the provisional order has been confirmed by the adjudicating authority.



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7. We carefully considered the rival submissions.

8. We are of the opinion that the petitioner cannot be left high and dry, for the fault of the Enforcement Directorate in citing a wrong document number in their provisional attachment order. Therefore, we direct the Enforcement Directorate to issue a corrigendum to the provisional attachment order No.01/2021 (MDSZO) dated 12.01.2021 in file No. ECIR/MDSZO/04/2018, deleting the reference to document No.5263 of 2014 and in its place, substitute document No.5263 of 2015 in the schedule to the said provisional attachment order. As a consequence, we further direct the Enforcement Directorate to issue an official communication to the 3<sup>rd</sup> respondent, for removing the entry relating to the attachment of the property covered in document No.5263 of 2014. The Enforcement Directorate shall also bring to the notice of the adjudicating authority about the corrigendum issued and consequently, necessary correction shall also be done in the order of confirmation passed by the adjudicating authority. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order and a compliance report be filed in the Registry. We also direct the 3<sup>rd</sup> respondent to remove the relevant entry in the Encumbrance Certificate pertaining to document No.5263 of 2014.



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9. Though the petitioner has prayed for quashment of the ECIR, we are of the opinion that, in the facts and circumstances of this case, it is not necessary to quash the ECIR and it would suffice, if the aforesaid directions are issued.

With the above directions, this writ petition is disposed of.  
No costs. Connected Miscellaneous Petition stands closed.

[P.N.P., J.] [N.A.V.,J.]

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22.12.2022  
(2/2)



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To  
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- 1.The Joint Director  
Directorate of Enforcement  
Shastri Bhavan  
Haddows Road, Chennai-6
- 2.The Deputy Director  
Directorate of Enforcement  
Madurai
- 3.The Sub Registrar  
Sub Registrar No.IV  
Madurai South Registration  
Madurai
- 4.The Principal Sessions Judge  
VIII Additional Judge for CBI Cases  
City Civil Court, Chennai  
(Spl.C.C.No.6 of 2021)
- 5.The Public Prosecutor  
High Court, Madras



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P.N.PRAKASH, J.  
AND  
N.ANAND VENKATESH, J.

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