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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.30874 of 2018

and

W.M.P.Nos. 36025 & 36027 of 2018

1. K.Arasu,
S/o. Kumarasamy
2. S.R.Venkatachalam,
S/o. Ramasamy
3. S.Chandrasekaran,
S/o. Sengodagounder
4. K.R.Palaniappan,
S/o. Ramasamy

...Petitioners

Vs.

1. The Sub-Registrar,
Sub-Registration Office,
Perunthurai, Erode Dt.
2. The Deputy Superintendent of Police,
Economic Offences Wing-II,
Annam Thirumana Mandapam,
Jagir Ammapalayam, Salem.

...Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication dated 25.06.2018 passed by the 2nd respondent in C.No.132/DSP/EOW-II/SLM/2018 and to quash the same in respect of sale deed in document No.2798/2017 is concerned and consequently direct the 1st respondent to entertain the registration of the conveyances in respect of the properties sale deed covered under Document No.2798/2017 on the file of 1st respondent forthwith.

For Petitioners : Mr.P.Srinivas

For Respondents : Mr.S.Ravikumar,
Special Govt. Pleader



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O R D E R

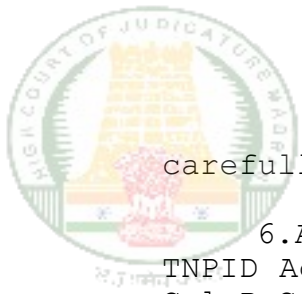
The Writ Petition has been filed seeking to quash the request made by the 2nd respondent Deputy Superintendent of Police to the 1st respondent Sub-Registrar, Perundurai not to allow registration of any document in respect of properties comprised in Old Survey Nos.176, 177 Resurvey No.64/5B measuring 1.48.5 hectares; Old Survey Nos.169, 175, Resurvey No.92/1A measuring 0.50.0 hectares; Old Survey Nos.169, 175, Resurvey No.92/1B measuring 2.29.5 hectares, old Survey Nos. 164, 169 Resurvey No.92/3 measuring 0.14.5 hectares totally measuring an extent of 3.97.5 hectares (9 acres 82 cents) in which 1.92 acres in Resurvey No.92/1A and 92/1B to an extent of 5.79 acres and in Resurvey No.64/4, to an extent of 0.03.3 $\frac{3}{4}$ of well totally measuring to an extent of 7.74 $\frac{3}{4}$ acres.

2.The grievance of petitioners is that, the petitioners are accused in Crime No.15 of 2017 for the offences under Section 420 of I.P.C. r/w Sec.4 of the Price Chits and Money Circulation Scheme (Banning) Act, 1978 @ 420 of I.P.C. and Section 5 of TNPID Act, 1997. Now, the investigation in the above case is pending and the properties has not been attached so far. In the meantime, the 2nd respondent sent a communication to the 1st respondent not to register any document in the above said survey numbers. Alleging that, the 2nd respondent has no power to direct the 1st respondent not to register any document, the present Writ Petition has been filed.

3.Mr.P.Srinivas, learned counsel appearing for petitioners would submit that, so far, the properties are not attached under TNPID Act and not even the proceedings under Sec.102 of CrI.P.C. has been initiated. In those circumstances, the 2nd respondent has no power to make a request to the 1st respondent not to register the properties, which is not permissible under law.

4.Today, the 2nd respondent Deputy Superintendent of Police is present before this court, and based on his instructions, Mr. S.Ravikumar, learned Special Government Pleader appearing for respondents would submit that, even though no attachment has been made so far, now the respondents are collecting all particulars against the properties owned by the petitioners and they will take immediate steps to get the properties attached. He would also submit that, the final report has been filed in respect of some cases and further investigation is in progress in other cases. In the meantime, if the properties are sold by the petitioners, it will cause great difficulty to the 2nd respondent to proceed with further investigation and the investors will be put in hardship.

5.Heard and considered rival submissions made by learned counsel appearing for both sides and perused the records



carefully.

6. Admittedly, so far, the properties are not attached under TNPID Act and no proceedings has been initiated under Sec.102 of CrI.P.C. In those circumstances, the question is whether the 2nd respondent has power to direct the 1st respondent not to register any document. It is pertinent to note that, under Sec.22-A of Tamil Nadu Registration Act, the Registrar has power to refuse to register document mentioned therein. Now, the properties involved in the present Writ Petition do not fall within anyone of the categories mentioned therein. In the said circumstances, the 1st respondent cannot refuse to register any document based on the representation made by the 2nd respondent. That apart, in absence of any attachment, the 2nd respondent does not have any power to make a request to the 1st respondent. This Court, in number of cases, have consistently held that, in these kind of cases, the investigating authority has no power to direct the Registrar to refuse to register documents. Considering those circumstances, as the 2nd respondent has no power to direct the 1st respondent to stop the registration, I am inclined to set aside the order passed by the 2nd respondent. Accordingly, this Writ Petition is allowed and the impugned order dated 25.06.2018 passed by the 2nd respondent is set aside. However, it is open to the 2nd respondent to proceed with the investigation in the criminal case and take steps to file a final report. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Sub-Registrar,
Sub-Registration Office,
Perunthurai, Erode Dt.
2. The Deputy Superintendent of Police,
Economic Offences Wing-II,
Annam Thirumana Mandapam,
Jagir Ammapalayam, Salem.

+lcc to Mr.S.Angamuthu, Advocate, S.R.No.29602

+lcc to the Government Pleader, S.R.No.30577

W.P.No.30874 of 2018

RSV(CO)

RGA(23/05/2022)