



W.P.(MD).No.13936 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.13936 of 2012
M.P.(MD)Nos.1 and 2 of 2012

T.K.Visweswari

... Petitioner

Vs.

1.The Government of Tamil Nadu,
represented by its Principal Secretary,
Home (Pol.XIX) Department,
Fort.St.George, Chennai.

2.The Commissioner for Land Administration,
Chepauk, Chennai-600 005.

3.The Inspector General of Police,
Economic Offences Wing II,
Chennai – 40.

4.The Additional Director General of Police,
Economic Offences Wing,
Anna Nagar, Chennai-600 040.

5.The Inspector of Police,
Economic Offences Wing II,
Nagercoil.

6.The District Revenue Officer,
(Competent Authority),
Kanyakumari District.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the first respondent, dated 14.12.2011, passed in G.O. No. 854 and to quash the same in so far as the ad-interim order of attachment passed in respect of the properties of the petitioner of an extent of 25 cents in S.F.No.739/1. Kalkulam Taluk, Thiruvattar Village, Kanyakumari District and an extent of 25 acre and 2 acres of agricultural land in Sy.No.596/6 and 592/1 respectively in Thiruvattar Village, Kalkulam Taluk, Kanyakumari District is concerned.

For Petitioner : Mr.J.Anandhavalli

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The present position has been filed challenging G.O.No.854, Home (Pol-XIX) Department, dated 14.12.2011, under which the first respondent in exercise of the powers under Section 3 of TNPID Act has passed an order effecting provisional attachment of 9 properties. The said government order is under challenge in the present Writ Petition.

2. According to the learned counsel for the petitioner, the property



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in serial number 8 is shown to be standing in the name of the petitioner's brother Madhavan. However, he's not the absolute owner of the property. The property was originally purchased by the father of the writ petitioner, namely Krishnapillai in the year 1935. The said Krishnapillai has executed a will in favour of the writ petitioner. Hence, the writ petitioner is the absolute owner of the property mentioned in the item number 8. The said Madhavan who is shown as the owner and who is also accused in the TNPID is only a lessee of the property.

3. The learned Counsel for the petitioner also refers to a registered lease deed, dated 09.12.2003, in Document No.2548 of 2003 in which the father of the petitioner has leased out the property to the writ petitioner's brother Madhavan who is an accused in the TNPID case. Hence, the petitioner has contended that her property cannot be attached.

4. Per contra, the learned Counsel for the respondent Government pointed out that the writ petitioner is the 6th accused in the said criminal case filed under TNPID Act. Hence, the properties of the petitioner are



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also liable to be attached and brought to sale for the use of the depositors.

5.I have carefully considered the submissions made on the either sides. In the present case, after the impugned G.O. effecting provisional attachment, the Government has moved the TNPID Court for making the attachment absolute. By way of an order, dated 27.11.2018, the TNPID Court in O.S.No.10 of 2016 has made the order of attachment absolute with regard to all the properties, except the 6th item.

6.The said order has been challenged by the accused persons in CMA(MD)No.904 of 2021. By way of an interim order, dated 27.10.2021, this Court has granted interim stay of all further proceedings pursuant to the order of attachment and the said CMA is still pending.

7.The petitioner being one of the accused persons in the TNPID case, it is for the petitioner to establish that the said 8th item in the G.O. was not procured utilizing the funds arising out of the financial irregularities committed by her brother. According to the petitioner, she



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is married and residing away in Kerala and she has no connection whatsoever with her accused brother Madhavan. However, the said issue cannot be decided in the present Writ Petition.

8.That apart, the order of attachment has been made absolute by exercising its civil jurisdiction by TNPID which is under challenge in C.M.A. before this court.

9.In view of the above said discussion, this Court is inclined to pass the following order:

- The writ petitioner is having an effective alternative remedy by way of getting herself impleaded in C.M.A.(MD)No.904 of 2021 where her rights relating to the 8th item of the property could be effectively decided. In view of the availability of the effective alternative remedy, this court is not inclined to exercise its jurisdiction under Article 226.

10.With the above said observation, the Writ Petition is disposed



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of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No

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To

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R.VIJAYAKUMAR ,J.



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Order made in
W.P.(MD).No.13936 of 2012

04.07.2022