



W.P.(MD)No.23463 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.11.2022

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THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD) No.23463 of 2022

Rajasekaran

... Petitioner

Vs.

1.The Competent Authority and
Commissioner of Land Administration, Chepauk,
Chennai.

2.The District Collector,
Theni District Collector Office,
Theni.

3.The Competent Authority /
The District Revenue Officer,
Theni District Collector Office,
Theni.

4.The Deputy Superintendent of Police,
Economic Offences Wing-II,
District Crime Branch,
Theni District.

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the third respondent to conclude the enquiry in proceedings No.23827/2001/D2 on the basis of the representation given by the petitioner, dated 10.08.2022 and pass final orders with regard to the release of attached properties of the petitioner.



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For Petitioner : Mr.K.Dinesh
For R1 to R3 : Mr.D.Sadiq Raja
Additional Government Pleader
For R4 : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)

ORDER

The petitioner has filed this Writ Petition seeking for issuance of Writ of Mandamus, directing the third respondent to conclude the enquiry in proceedings No.23827/2001/D2 on the basis of the representation given by the petitioner, dated 10.08.2022 and pass final orders with regard to the release of attached properties of the petitioner.

2.The grievance of the petitioner is that a complaint was filed against the petitioner and others, as if they have cheated the chit amount to the tune of Rs.3,27,000/- collected in the name and style of Sri Bhubaneswari Chit Funds and Sri Gurudev Chits Private Limited, Uthamapalayam. The petitioners and others were convicted in the said case. The first respondent initiated the proceedings and attached the properties belong to the petitioner. He also filed a petition to bring the property for auction. In the meantime, the petitioner was acquitted by an order of this Court in Crl.R.C.(MD)No.120 of 2015, dated 21.10.2019. Even after the said order of acquittal, the properties of the petitioner were not released. Hence, the petitioner made a representation to the third respondent. Since the same was not considered the petitioner



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preferred W.P.(MD)No.8875 of 2022 seeking to conclude the enquiry and the same was ordered with a direction to the fourth respondent therein to conclude the enquiry on the complaint lodged by the petitioner within a period of two weeks from the date of receipt of a copy of that order.

3. The fourth respondent therein had conducted enquiry pursuant to the order passed by this Court and submitted a report to the third respondent. After receiving the same, the third respondent had not taken any steps to release the property. Hence, the petitioner again made a representation on 10.08.2022 to the third respondent. But the enquiry proceedings is kept pending by the third respondent without any reason. Hence, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that the petitioner was convicted by the learned Judicial Magistrate, Uthamapalaym in C.C.No.73 of 2011 for the offence of cheating and the same was confirmed in an appeal before the learned Additional District and Sessions Judge in C.A.No.27 of 2011. In the meantime the properties of the petitioner and his wife were attached and the proceedings were initiated to bring the same for auction. He was acquitted from all charges by this Court in CrI.R.C.(MD)No.120 of 2015. Even after the acquittal of the petitioner, the third respondent did not release the properties of the petitioner. He further submitted that the petitioner is a



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senior citizen and he is facing huge financial crisis. He is not in a position to met out his day-to-day expenses.

5.The learned Government Advocate (Crl.Side) appearing for the fourth respondent submitted that the representation of the petitioner dated 23.02.2021 seeking to release the property of the petitioner and his wife has been enquired into. A report has been submitted before the third respondent to the effect that except the present cases, no other case is registered as against the petitioner and the same is pending before the third respondent for consideration.

6.The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the report sent by the fourth respondent with regard to the pendency of criminal cases is now pending before the third respondent. He further submitted that though it is stated the petitioner is the owner of the property, it is necessary to verify that the properties are exclusively belonged to the petitioner and his wife or their family properties in order to protect the welfare of the investors. It is also necessary to verify whether there is any possibility of returning the amount to the investors/depositors, who have deposited their money in the Finance Company. Only after such verification of documents by way of an enquiry, necessary proposal will be sent to the Government.



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7. Heard the arguments advanced on either side and perused the materials placed before this Court.

8. From the above submission, it is seen that now the proceedings is pending with the third respondent for verification of documents. The third respondent is directed to complete the process of verification of documents relating to the property of the petitioner and his wife by holding an enquiry and submit necessary proposal to the authority competent within a period of **twelve (12)** weeks from the date of receipt of a copy of this order. Thereafter, the first and second respondents herein are directed to consider the proposal to be submitted by the third respondent and pass appropriate orders within a period of **eight (8)** weeks after affording an opportunity of hearing to the rival parties for their defence.

9. With the above direction, this Writ Petition is disposed of. No costs.

03.11.2022

Index : Yes/No
Internet : Yes/No
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V.BHAVANI SUBBAROYAN, J.

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Order made in
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