



W.P.(MD) No.28265 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.28265 of 2022

and

W.M.P.(MD)Nos.22315 and 22316 of 2022

Kadiapattinam Rasi Bank, (46/22),

Depositors Association,

Rep. by its Secretary, Leslin,

Reg.No.61/2017, Kadiapattinam,

Kanyakumari District-629 253.

... Petitioner

-Vs-

1.The State of Tamil Nadu,

Represented by its Secretary,

Home (Police-XIX) Department,

St.George Fort, Chennai-9.

Page 1 of 8



W.P.(MD) No.28265 of 2022

WEB COPY

2.The Inspector General of Police,
Economic Offences Wing-II,
Chennai.

3.The District Collector,
Nagercoil, Kanyakumari District.

4.The Superintendent of Police,
Economic Offences Wing-II,
Nagercoil, Kanyakumari District.

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

6.The Branch Manager / Authorized Officer,
Indian Overseas Bank, Eraniel Branch,
Nagercoil, Kanyakumari District.

7.The Sub Registrar,
Manavalakurichi, Kanyakumari District.

8.M.A.Milton Doss

Page 2 of 8



W.P.(MD) No.28265 of 2022

WEB COPY

9.Arockiya Poovathy

10.Sahaya Antony

11.A.J.Stalin

Represented by his Power Agent, M.A.Titus

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the impugned sale certificate in Doc.Nos.2061, 2062 and 2063/2011 registered on the file of the 7th respondent and quash the same.

For Petitioner : Mr.G.Prabhurajadurai,
for Mr.R.Maheswaran

For R1, R3 & R7 : Mr.R.Baskaran,
Additional Advocate General,
assisted by Mr.S.Shanmugavel,
Additional Government Pleader

For R2, R4 & R5 : Mr.S.Manikandan,
Government Advocate (Crl.Side)

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The sale certificate in Doc.Nos.2061, 2062 and 2063/2011 registered on the file of the 7th respondent, is under challenge in this Writ Petition.

Page 3 of 8



W.P.(MD) No.28265 of 2022

WEB COPY

2.Mr.R.Baskaran, learned Additional Advocate General takes notice for the respondents 1, 3 and 7 and Mr.S.Manikandan, learned Government Advocate (Crl.Side) takes notice for the respondents 2, 4 and 5. Considering the nature of order proposed to be passed in this Writ Petition, notice to the respondents 6, 8 to 11 is dispensed with.

3.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

4.According to the petitioner association, the respondents 8 and 9 started a financial institution in the name and style of “Raasi Bankers” at Kadiapattinam, Kanyakumari District, wherein, many middle class families deposited amounts. Thereafter, the respondents 8 and 9 have started to default the depositors by not paying any interest and later not paying the principal amount, whenever the same matures. Therefore, the petitioner association has filed a criminal complaint in Crime No.1 of 2006 for the offences punishable



W.P.(MD) No.28265 of 2022

WEB COPY

under Sections 409 and 420 IPC before the 5th respondent and later, the same was altered to Section 5 of TNPID Act. Pending investigation, the Government has issued G.O.(Ms)No.1470, Home (Police XIX) Department, dated 17.10.2007 for attaching the immovable property of the respondents 8 and 10. The depositors were under the impression that their amounts are secured as the Government has attached the 5 properties of the accused persons.

5.In the meantime, the 5th respondent after thorough investigation filed charge sheet in C.C.No.2 of 2010 on the file of the learned Sessions Judge, Madurai. Since the trial has been prolonged, the petitioner has filed CrI.O.P. (MD)No.16720 of 2022 to expedite the trial in C.C.No.2 of 2010, wherein this Court, by an order dated 30.09.2022, directed the trial Court to expedite the trial and complete the same within a period of six months. In the meantime, the petitioner association came to know that the 10th respondent purchased the subject properties through Doc.No.2060 of 2011 in the sale conducted by the 6th respondent under the proceedings of SARFAEASI Act. Further, the petitioner association came to know that the 6th respondent filed W.P.(MD)No.5432 of



W.P.(MD) No.28265 of 2022

WEB COPY

2008, challenging the attachment order passed by the Government in the aforesaid Government Order, wherein this Court, by an order dated 24.08.2011, quashed the said Government Order in respect of the item Nos.1, 2, 3 and 5 of the properties mentioned in the said Government Order. Based on the said order dated 24.08.2011, the 6th respondent Bank sold the said properties through public auction for a meager amount and the sale certificate in Doc.Nos.2061, 2062 and 2063/2011 have been issued. Hence, the petitioner has approached this Court with the aforesaid prayer.

6.Though the petitioner has raised several grounds in this Writ Petition, we are not inclined to entertain this Writ Petition on the simple ground that the aforesaid sale certificate was registered in the year 2011, however, this Writ Petition is filed only in the year 2022.

7.At this stage, the learned counsel for the petitioner submitted that liberty may be granted to the petitioner to seek appropriate remedy before the appropriate forum.

Page 6 of 8



W.P.(MD) No.28265 of 2022

WEB COPY

8.In view of the above, without going into the merits of the case, we dismiss the Writ Petition with liberty to the petitioner to seek appropriate remedy before the appropriate forum, if permissible under law. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] & [R.V., J.]

15.12.2022

Index : Yes / No

Internet : Yes / No

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To

1.The Secretary,
State of Tamil Nadu,
Home (Police-XIX) Department,
St.George Fort, Chennai-9.

2.The Inspector General of Police,
Economic Offences Wing-II,
Chennai.

Page 7 of 8



WEB COPY



W.P.(MD) No.28265 of 2022

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AND

R.VIJAYAKUMAR, J.

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3.The District Collector,
Nagercoil, Kanyakumari District.

4.The Superintendent of Police,
Economic Offences Wing-II,
Nagercoil, Kanyakumari District.

5.The Inspector of Police,
Economic Offences Wing-II,
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W.P.(MD)No.28265 of 2022

15.12.2022

Page 8 of 8