



W.P.No.11019 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.11019 of 2023

Sanjiv G Pallikal

... Petitioner

Vs.

1. The Joint Director of Enforcement,
Directorate of Enforcement,
2nd and 3rd Floor, C Block,
Murugesha Naicker Office Complex,
84, Greaves Road, Thousand Lights,
Chennai – 600 006.

2. Umaiyal Radhai

3. The Sub Registrar – Mylapore,
100 Santhome High Road,
Santhome,
Chennai – 600 004.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the first respondent herein to consider the petitioner's representation dated 14.03.2023 and the offer of Security of Equivalent Value, issue a No Objection Certificate (NOC) to enable all the flat owners in Poojapura Apartments, Old No.130, New Door No.209, St.Mary's Road, Alwarpet, Chennai – 600 018, to go ahead with our proposed Joint / Re-development of the building, of which one Flat No.1114 owned by the second respondent on the 3rd Floor, R.S.No.3922\4, Document No.1053\2014, is subject to Attachment Order No.ECIR\CEZO-1\53\2021 dated 30.11.2021, as reflected in EC Document No.2 of 2022 registered on 19.01.2022 in the records of the third respondent herein.

For Petitioner : Mr.Sanjay Pinto

For Respondents : Mr.N.Ramesh
Special Public Prosecutor for R1
Mr.K.M.D.Muhilan
Additional Govt. Pleader for R3

ORDER

This Writ Petition has been filed for a direction to the first respondent to consider the petitioner's representation dated 14.03.2023 and the offer of Security of Equivalent Value and issue No Objection Certificate (NOC) to enable all the flat owners in Poojapura Apartments, Old No.130, New Door No.209, St.Mary's Road, Alwarpet, Chennai – 600 018, to go ahead with our proposed Joint / Re-development of the building, of which one Flat No.1114 owned by the second respondent on the 3rd Floor,



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R.S.No.3922\4, Document No.1053\2014, is subject to Attachment Order No.ECIR\CEZO-1\53\2021 dated 30.11.2021, as reflected in EC Document No.2 of 2022 registered on 19.01.2022 in the records of the third respondent herein.

2. The case of the petitioner is that the petitioner is a senior citizen and owner of a flat measuring 1307 sq.ft. together with 6.035% undivided share in the building named Poojapura Apartments. It has totally 11 flats that were constructed way back in 1995. Over the last 28 years, several cracks and seepage have developed in the building inhabited, among others, by senior citizens. With the ongoing Chennai Metro Rail construction about 700 metres away, the residents have experienced tremors recently. Since the flats are in dilapidated condition, all the flat owners have decided to demolish and redevelop the property, i.e., Poojapura Apartments by Vishranthi Homes Private Limited. However, the petitioner and the other flat owners have recently come to know about Enforcement Directorate Proceedings of the first respondent pending against one of the flat owners,



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i.e., the second respondent herein, under Section 37A of the Foreign Exchange Management Act, 1999. The proposed Joint / Re-development Partner – Vishranthi Homes Private Limited has given an undertaking to furnish Security of Equivalent Value to the first respondent, as a condition for the issuance of NOC by the first respondent to enable them to proceed with the Joint / Re-development of the property. In order to do Joint / Re-development, the petitioner has made a representation to the first respondent on 14.03.2023. But, till date, no order was passed. Hence, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner is ready and willing to pay the money whatever demanded by the first respondent in view of the attachment of the second respondent's flat enabling the petitioner to Joint / Re-develop of the said apartment. Hence, this Court may issue a direction to the first respondent to consider the representation of the petitioner as expeditiously as possible.



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4. The learned Special Public Prosecutor appearing for the first respondent would submit that admittedly the property of the second respondent was attached before the first respondent, however, the petitioner has no locus to file a Writ Petition before this Court either paying the money on behalf of the second respondent or remove the attachment. Hence, he prayed for dismissal of this Writ Petition.

5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. The facts in the present case are not in dispute. Admittedly, the second respondent has undivided the share in the above said land, for which, the Joint Director of Enforcement / first respondent has attached the property owned by the second respondent. However, the petitioner and the other co-owners have decided to demolish and redevelop the property, i.e., Poojapura Apartments, but in view of the attachment order of the first respondent, they were not able to proceed further. The petitioner has no



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locus standi to file a Writ Petition before this Court either paying the money on behalf of the second respondent or remove the attachment. Unless the attachment is cleared in the manner known to law or the second respondent approaches this Court by paying the entire amount as demanded by the first respondent, the relief sought for in the Writ Petition cannot be granted and the same is not maintainable.

7. Accordingly, this Writ Petition is dismissed in the above terms.

No costs.

11.04.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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To

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