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W.P.No.14636 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **14.02.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.14636 of 2020
and
W.M.P.No. 18163 of 2020

1.Ramu
2.N.Anandan
3.G.K.Rajamurugan
4.M.Prabhakar
5.M.Bharanidharan ... Petitioners

versus

1.The Secretary to Government
Energy (B2) Department
Secretariat, Chennai-09

2.The Deputy Superintendent of Police
Vigilance and Anti Corruption
Coimbatore

3.K.G.Natesan
4.G.Mallika
5.N.Sathiyaprakash
6.N.Sridevi ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari to call for the records on the file of the 1st respondent in G.O.Ms.No.10, Energy (B2) Department dated 08.02.2010 and quash the serial No.2 in Annexure-II

For the Petitioner : Mr.P.Kannan Kumar

For the Respondents : Mr.U.Baranidharan,
Additional Government Pleader,

1/6



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for respondents 1 and 2

ORDER

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The writ petition has been filed in the nature of certiorari seeking records of the first respondent, the Secretary to Government, Energy (B2) Department, Secretariat, Chennai relating to G.O.Ms. No. 10, Energy (B2) Department, dated 08.02.2022 and quash the same, so far as the second property in Annexure-II is concerned.

2. The said second property in Annexure-II is land and building in the name of the fourth respondent herein, G. Mallika, which had been purchased by Document No. 3335 of 1999 dated 22.10.1999 and registered in the office of the Sub Registrar, Bavani on 12.11.1999. It is land measuring one acre in Survey No. 428/2, Suriyampalayam Village, Erode Taluk, Bavani in Erode District.

3. The fourth respondent was the second accused in Special CC No. 35 of 2015. The third respondent, her husband was the first accused in the said Spl CC.No. 35 of 2015. The complainant was the State of Tamil Nadu represented by Deputy Superintendent of Police, (Vigilance and Anti Corruption) at Erode. A final report was filed consequent to registration of FIR in Crime No. 06/AC/2008.



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4. The final report was filed placing a charge that the two accused had acquired properties disproportionate to their known sources of income while they were public servants. The charge was under Section 14(1)(e) of the Prevention of Corruption Act, 1988. Any property purchased by the tainted money will necessarily have to be attached and subsequently confiscated under the provisions of the Criminal Ordinance of the year 1944. This ordinance gives the power to the court which tries the offence to so attach the property. Consequent to that, the first respondent had passed the aforementioned Government order.

5. Learned counsel for the petitioner stated that the property had been purchased by the petitioner in the year 2009 and that the property had been purchased in the year 2008 by the fourth respondent in her own name since she was an Assistant Professor. The fourth respondent may be an Assistant Professor, but she was also an accused and after trial had been convicted and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs. 50/- lakhs, in default undergo imprisonment of one year. The punishment was for conviction of offence under Section 109 IPC read with Section 13 (2) read with Section 13 (i) (e) of the Prevention of Corruption Act, 1988.



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6. The third respondent had also been convicted.

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7. Once the both the accused have been convicted then the properties as given in the schedule by the investigating authorities will necessarily have to be attached. A prior purchaser cannot get any right whatsoever.

8. The petitioner cannot seek any indulgence of this Court. The petitioner has unfortunately purchased the property whether knowingly or unknowingly, from an accused person who had purchased the property from income earned otherwise than from known sources of income. It is a disproportionate asset and naturally, it has to be attached.

9. An impleading application had been filed in W.M.P. 33331 of 2022 by further purchasers of the property. They also have no right over the property. They have all purchased tainted property. No right accrues.

10. The petitioners are at liberty to proceed against the third and fourth respondents in view of the indemnity clause found in the sale



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deed. The writ petition is dismissed. No costs. WMP No.18163 of 2020 is ordered subject to payment of separate court fee.

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Index: Yes/no
mrn

To

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Energy (B2) Department
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2.The Deputy Superintendent of Police
Vigilance and Anti Corruption
Coimbatore



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C.V.KARTHIKEYAN, J.
(mrn)

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