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W.P.No.17291 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition Nos.17291 of 2022
and
WMP.Nos.16632,16633 & 16634 of 2022

1. R.Subramaniam
2. K.Govindarajan
3. R.Subbaiyan
4. R.Kalaimani
5. Mrs.Geethalakshmi
6. Mrs.K.Sulochana
7. S.Venugopal
8. Mrs.S.Bhuvana
9. S.Pasupathirajan

... Petitioners

Vs.

1. The Deputy Superintendent of Police
Economic Offences Wing II
Salem
2. The District Registrar
Office of District Registrar
Namakkal District.
3. The Joint II Sub Registrar
Office of Sub Registrar
Namakkal.



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4. The Sub Registrar

Office of Sub Registrar

Paramathi – Velur,

Namakkal District.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in C.No.63/DSP/EOW-II/SLM/2019 dated 05.09.2019 sent to the 2nd respondent and to quash the same with consequential direction directing the 3rd respondent to register the Supplemental Memorandum of Deposit of Title Deeds executed on 12.04.2022 submitted by the Petitioners for registration on 20.04.2022 in pending document No.23/2022 pertaining to the petitioner's properties, situate at Kutlamparai (K.Puliampatty) Village, Paramathi Velur Taluk, Namakkal District, comprised in Survey Nos.45/1A, 45/1B, 47/1, 47/2A 47/2C, 48/1B, 48/1D, 48/2, 49/1C, 49/1D, 48/1A, 48/1C and 48/1E within the time frame.

For Petitioners
For Respondents

: Mr.S.Senthil
: Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

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This writ petition has been filed challenging the proceedings of the 1st respondent dated 05.09.2019 sent to the 2nd respondent and thereby, restraining the 2nd respondent not to entertain any documents pertaining to the properties in SF No.7/7-13A, Kutlamparai (K.Puliampatty) Village, Paramathi Velur Taluk, Namakkal District. The petitioner has sought for a consequential direction to the 3rd respondent to entertain the documents presented by the petitioner and to register the same.

2. Heard Mr.S.Senthil, learned counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor for respondents.

3. The main grievance that has been expressed by the learned counsel for the petitioner is that the 1st respondent has straightaway issued a communication dated 05.09.2019, directing the 2nd respondent not to entertain any documents pertaining to the subject property. It was submitted that the 1st respondent does not have any right to issue such a communication and if at all, the properties are sought to be attached, it can



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be done by following the procedure under the Tamil Nadu Protection of Interests to depositors (In Financial Establishment) Act 1997 (hereinafter referred to as the TANPID Act). In view of the same, the impugned communication dated 05.09.2019 has been put to challenge in this writ petition.

4. Per contra, learned Government Advocate based on the affidavit filed by the 1st respondent submitted that the present case involves the interest of nearly 1686 depositors, who had deposited to the tune of Rs.15,00,000/- in finance companies that were run by one Sivakumar. The further stand that has been taken by the learned Government Advocate is that the said Sivakumar had managed to dispose of his properties to some persons and a sum of Rs.16 Crores that was collected from the depositors was also handed over to those persons. Therefore, in order to protect the interest of depositors and in order to ensure that no third party rights are created, the impugned communication dated 05.09.2019 was sent to the 2nd respondent.

5. The learned Government Advocate further submitted that the



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communication dated 05.09.2019 was only an interim measure and steps were taken to get the properties attached in accordance with the Act and Rules. In the meantime, this Court had appointed a committee for the purpose of settling the depositors since the said Sivakumar had undertaken that he will settle all the depositors. While this process was going on, even the Chairman of the committee had directed the 2nd respondent not to entertain any documents pertaining to the subject property. In view of the same, the learned Government Advocate submitted that the communication dated 05.09.2019 was sent only to safeguard the interest of the depositors and that steps will be taken to attach the properties by following the procedure under the TANPID Act and Rules.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. In the considered view of this Court, the communication dated 05.09.2019 made by the 1st respondent to the 2nd respondent is more by way of temporary arrangement to ensure that third party rights are not created on the properties. By the time steps were taken to get the property attached, the



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4th respondent had undertaken to settle the depositors and a committee was also formed and ultimately, nothing turned out of it. Consequently, this Court has issued necessary directions while disposing of WP No.9404 of 2023 today. One of the direction that was issued by this Court today is that the District Collector was asked to pass necessary orders within a period of two weeks by appointing the competent authority who shall immediately take steps to attach the properties. In view of the same, the impugned communication dated 05.09.2019 will be superseded by the steps that are going to be taken by the competent authority under the Act and Rules. It is true that a police officer cannot straight away issue a direction to the registering authority not to register any documents pertaining to the disputed property. However, in the present case, such a communication was sent since the case involved the interest of more than 1000 depositors and the 1st respondent wanted to somehow ensure that their rights are not defeated.

8. The directions given by this Court in WP No.9404 of 2023 will sufficiently take care of the interest of the petitioners. If ultimately, the competent authority does not bring the subject property within the scope of attachment under the Act and Rules, it will always be left open to the petitioners to deal with the property.



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WEB COPY 9. This writ petition is disposed of in the above terms. No costs.

Consequently, the connected miscellaneous petitions are closed.

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Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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