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W.P.No.25387 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

W.P.No.25387 of 2022

and

W.M.P.Nos.24364, 24365 of 2022 & 1889 of 2023

N.Srinivasan

...

Petitioner

Vs.

1.The Inspector of Police,
K-10, M.G.R.Nagar Police Station,
Chennai – 600 078.

2.The Sub Registrar,
Sub Registrar Office – Pammal
Pammal, Chennai – 600 075.

3.L.M.Muthu

...

Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records, pertaining to the Non-Traceable Certificate, issued by the 1st respondent, dated 25.01.2021 and quash the same.

For Petitioner : Mr.V.Karthikeyan

For Respondents : Mr.S.Santhosh
Government Advocate (Crl. Side) (R1 & R2)

Mr.S.Ramajayan (R3)



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ORDER

This Writ Petition is filed to issue a Writ of Certiorari to call for the records, pertaining to the Non-Traceable Certificate, issued by the first respondent, dated 25.01.2021 and quash the same.

2.The learned counsel for the petitioner submitted that petitioner and third respondent were partners in Sri New Touch Builders. On behalf of Sri New Touch Builders, they had constructed four apartments and sold. There was a sale agreement entered into with one R.Sivagnanasundaram by the petitioner for the sale of land in S.No.75/2, patta no.1569 new S.No.75/52AIB plot no.5, as per the CMDA particulars, planning permit No.0416/06, Sub Division D.Dis No.2145/06/A3 dated 19.05.2006, the extent of plot No.5B is 3689 sq.ft. In pursuance of this sale agreement, a sum of Rs.10,00,000/- was paid to R.Sivagnanasundaram through his power agent V.Ramabhadhran through petitioner's other construction company called S.B.Construction's bank account. Another sum of Rs.62,00,000/- was paid through the bank account of Sri New Touch Builders. After paying the entire sale consideration, power of attorney deed was executed in favour of third respondent L.M.Muthu vide power of attorney deed No.3614/2013.



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3. Thereafter, due to difference of opinion, the construction of apartments was stopped with basement. Despite several grounds of negotiation there was no settlement reached between petitioner and the third respondent. As the partner of Sri New Touch Builders, petitioner was in possession of the original parent sale deed No.926/2011, the sale deed in favour of Perumal, who sold the property to R.Sivagnanasundaram in document No.91/2006, power of attorney deed executed by R.Sivagnanasundaram to V.Ramabhadhran in document no.196/2011, power of attorney cancellation deed No.3613/2013, original patta, receipt for paying money to CMDA, permission for sub division, plan. When that be the case, third respondent without the knowledge of petitioner started constructing building in the apartment and selling the flats to third parties. When enquired, he came to know that the third respondent obtained a “Non Traceable Certificate” with regard to the original documents. Therefore, petitioner gave a complaint to the Inspector of Police, R-10, MGR Nagar Police Station. On the basis of his complaint, the Non Transferable Certificate given to the third respondent was cancelled by the Inspector of Police, R-10, MGR Nagar Police Station on 27.09.2022.



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4.In response, the learned counsel for the third respondent submitted that in the sale agreement entered into between petitioner and R.Sivagnanasundaram on 05.12.2012, there is no mention about the handing over of the original documents, but a reference was made only to the effect that copies of the documents alone were handed over to petitioner. On 23.05.2013, power of attorney was executed in favour of the third respondent for dealing with the property. It is the submission of the learned counsel for the third respondent that petitioner had stolen the documents.

5.Considered the rival submissions and perused the records.

6.The Non Traceable Certificate issued to the third respondent reads as follows:

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*O/O. Inspector of Police, (Crime),
R10, MGR Nagar Police Station,
Chennai-78.*

CERTIFICATE

*This is to certificate that Tr. Muthu M/a.64, S/o. Lakshmanan,
No.4/11, Singaram Street, Vivekananda Nagar (Annex), R.K. Nagar
(West), Nesapakkam, Chennai-78, stating that he has lodged a*



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written complaint regarding missing Original document bearing Document No.926/2011 in Survey No.75/2, 75/2A 1B in Patta No.1569 and Power Document No.3614/2013. The above original document missed on 20.09.2020, while he go through to take Xerox shop at MGR Nagar Market, Chennai. The same was sent to CRIME RECORD BUREAU and published in CRIME AND OCCURANCE SHEET VIDE RC.NO.1165/PUB/CRB/2020 C & O SHEET IN 366/2020 Dated 31.12.2020 all effort were taken to trace the above Original Sale Deed Document but could not be traced.

*Inspector of Police, Crime,
R10, MGR Nagar Police Station,
Chennai-78.*

This certificate makes it clear that Non Traceable Certificate was given for the reason that when the third respondent went to take xerox, at the xerox shop on 20.09.2020, the original document in document No.926/2011 in Survey No.75/2, 75/2A 1B in Patta No.1569 and Power Document No.3614/2013 were lost and on that note, the Non Traceable Certificate was given.

7.In the counter affidavit filed by the third respondent in this writ petition, in paragraph 10, it is stated as follows:

(10) I humbly submit that the writ petitioner is a cheating person, because he has stolen my document No.926 of 2011 without my knowledge. I genuinely lodged complaint while the document



was missing from my hand in the year 2020, at the time of lodging complaint I don't have idea of stolen character of writ petitioner. I gave genuine complaint and genuine documents to the police authority for taking action against my compliant; then the police authority issued Non Traceable Certificate.

It thus shows two totally contrasting statements are made in the petition filed for Non Traceable Certificate and in the counter affidavit with regard to missing of documents. In the petition given for getting Non Traceable Certificate, it was stated that the documents were lost, whereas in the counter affidavit, it is claimed that the documents were stolen by petitioner. Third respondent blows hot and cold. If the statement that the documents were lost while going to take xerox is true, other statement that petitioner had stolen the documents could not be true. It *prima facie* shows that third respondent is not speaking truth. This Court does not want to go into this matter any further for the reason that the Non Traceable Certificate issued to third respondent is now cancelled by the Inspector of Police, R-10, MGR Nagar Police Station, specifically stating that the Non Traceable Certificate is not valid.



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8. In this view of the matter, there is nothing survives for adjudication in this writ petition. Therefore, this writ petition is disposed of as infructuous.

9. Accordingly, this Writ Petition is disposed of as infructuous. No costs. Consequently, connected miscellaneous petitions are also closed.

17.03.2023

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Internet: Yes

Index: Yes/No

Speaking/Non speaking order

To:

1. The Inspector of Police,
K-10, M.G.R. Nagar Police Station,
Chennai – 600 078.

2. The Sub Registrar,
Sub Registrar Office – Pammal
Pammal, Chennai – 600 075.

3. The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
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