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W.P.No.25979 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.25979 of 2023

and

W.M.P.Nos.25384 and 25386 to 25388 of 2023

Viswapriya (India) Limited
2, First Cross Road,
Kasturba Nagar, Adyar,
Chennai-600 020.

... Petitioner

Vs.

1.The State of Tamilnadu
rep.by the Principal Secretary,
Department of Home, Prohibition and Excise,
Chennai.

2.State Represented by
The Deputy Superintendent of Police,
Economic Offences Wing-II,
Guindy, Chennai-32.

3.The Competent Authority under the TNPID Act,
District Revenue Officer,
Chennai-600 001.

... Respondents

Prayer: Writ Petition is filed under Section 226 of Constitution of India, pleaded to issue Writ of Continuing Mandamus, directing the respondents to comply with the order dated 30.10.2015 passed by this Hon'ble Court in C.M.P.No.5 of 2015 in CrI.O.P.No.23901 of 2015 and reiterated in



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order dated 11.08.2022 in order allowing W.P.No.12952 of 2021 and in pursuance thereof monitor the actions of the respondents in respect of the effective implementation of the order till the realisation of amounts from the part shares in 14 properties are realised to meet payments to the debenture holders of the petitioner.

For Petitioner : Mr.R.Subramanaian, Party-in-person

For Respondents : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

This Writ Petition along with Miscellaneous Petitions for interim relief filed seeking Continuing Mandamus in respect of the order passed by this Court in W.P.No.12952/2021 dated 11.08.2022.

2. The back ground facts leading to filing this Writ Petition is in respect of the petitioner company by name Viswapriya (India) Limited, a case was registered under TNPID Act and taken for trial in C.C.No.6 of 2020. Prior to that when the matter was under investigation in Crime No.5 of 2013, the promoter of the company Mr.R.Subramanian and the persons who have lost the money were agitating their cause by filing various petitions and one such petition is the bail petition Crl.O.P.No.23901 of 2015 filed under Section 439 of Cr.P.C., by



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Mr.R.Subramanian. In this, the Court has taken note of certain facts put forth by this petitioner regarding the assets available with the company and the civil dispute pending in respect of the property.

3. The order on which the petitioner herein seeks to be monitored by this Court came to be passed on 11.08.2022, after taking note of the various facts which has gone through all these years ever since the criminal case registered against this petitioner in the year 2013. After referring the order passed in the bail petition and the observation made by the Hon'ble Supreme Court regarding the disclosure of nine other properties of the company made by the petitioner herein, the learned Judge in W.P.No.12952 of 2021 in the order dated 11.08.2022 directed the respondent police to take steps under Section 3 of TNPID Act to effect attachment of the remaining 9 properties set out in the affidavit filed in the petition dated 26.10.2015 within a period of 12 weeks.

4. Alleging that the respondent police has not acted upon the direction of this Court in the above said writ petition, the present writ petition is filed for Continuing Mandamus.



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5. The learned Government Advocate (Crl.Side) appearing for the State submits that in respect of these 9 properties in view of complex dispute regarding title pending in the Courts, opinion of the learned Public Prosecutor is sought on 17.08.2023 and his opinion is awaited. Once the opinion is obtained, necessary action will be taken.

6. Meanwhile on behalf of the investors, the learned counsel appeared as intervenor submitted that the writ petition filed by R.Subramanian as if he represents Viswapriya (India) Limited itself is not maintainable, since the said company has gone into liquidation and this Court vide order dated 21.04.2023 has appointed Official Liquidator as Provisional Liquidator and directed to take charge of Viswapriya (India) Limited.

7. The learned counsel appearing for intervenor submits that the company having been winded up by an order of the High Court, taken over by the Official Liquidator by an order dated 21.04.2023, the present Writ Petition is filed by the individual former promoter R.Subramanian on 29.08.2023 is not maintainable.



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8. The petitioner who appeared in person fairly accepted the order of winding up passed by this Court and appointment of Official Liquidator. However he submits that he has preferred an Intra Court appeal and the same is yet to be taken on file.

9. On considering the submissions and the objection regarding the locus standi of the petitioner herein to prefer this writ petition after winding up the company ordered by this Court, this Court is of the view that the 9 additional properties which the petitioner has disclosed before winding up of the company appears to be clouded with title dispute and the prosecution has sought for legal opinion whether to proceed against or not. It is the prerogative of the prosecution to take appropriate decision based on the record. As far as the petitioner herein is concerned who are all along representing the company now after order of winding up has lost locus standi. The Official Liquidator has entered into the shoes of the petitioner. The Official Liquidator will take care of assets and liabilities of the company as per the provisions of law. The petitioner herein in fact wanted to delay the process of disbursement of the money to the investors under the guise of disclosing few more properties which



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are not clear in title and not apparently worth to proceed for attachment.

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In fact, it is a trap laid by the petitioner herein to the Investigating Agency, so that the criminal prosecution against him will not reach finality.

10. This Court is able to see through the game of the petitioner herein and the reason for filing this Writ Petition fully knowing well that he has no locus to sustain this Writ Petition after the Court ordered winding up and the liquidation proceedings commenced. For the reasons stated above, this Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are dismissed.

15.11.2023

Index : Yes/No

Neutral Citation : Yes/No

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To:

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Chennai.

2.The Deputy Superintendent of Police,
Economic Offences Wing-II,
Guindy, Chennai-32.



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3.The Competent Authority under the TNPID Act,
District Revenue Officer,
Chennai-600 001.

4.The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

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