



W.P.No.33249 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:13.12.2023

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.33249 of 2023

Salem Mavatta Nidhi Niruvangalil
Mudhaleedu Seithu Pathikapataragal
Nala Sangam,
(Reg.No.SRG/SLM-West/145/2022)
T.Ramachandran
S/o Thiyagaraj
Having its registered office
No.114, 38, Dr.Subbarayan Road,
Salem District 636 001.

.. Petitioner

/versus/

1.The District Collector,
District Collector Office,
Fort Main Road,Salem.

2.The District Revenue Officer/
Competent Authority,
District Collector Office,
Fort Main Road, Salem.



W.P.No.33249 of 2023

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3. Deputy Superintendent of Police,
EOW-II, Salem District.

4. Sivakumar, Proprietor,
Winstar India City Developers,
Salem District.

.. Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, directing the respondent No.1 to issue a direction to the respondent No.2, to identify the properties of respondent No.4 and attach the same in C.C.No.6 of 2019 pending on the file of Special Court for the trial of cases under TNPID Act, Coimbatore in view of the petitioner's representation dated 28.10.2022 within a stipulated time frame fixed by this Hon'ble Court.

For Petitioners : Mr.S.Bharanidharan

For Respondents : Mr.Leonard Arul Joseph Selvam
Govt.Advocate (Crl.Side) for R1 to R3

ORDER

The petitioner herein seeks issuance of Writ of Mandamus to the second respondent to attach the property of the 4th respondent, who is an accused in C.C.No.6 of 2019.



W.P.No.33249 of 2023

WEB COPY 2.

This Court is doubtful about the maintainability of a writ petition in the name of a Society to attach the properties of a private individual (4th respondent). Also whether under Section 482 of Cr.P.C., the Judge of the High Court can pass Mandamus, without ascertaining what is the property owned by the 4th respondent; whether the 4th respondent is liable to pay money to the petitioner Sangam herein; and whether the petitioner Sangam has any locus to file such Mandamus on behalf of its members. Hence, this Court sought clarification from the learned counsel appearing for the petitioner, who has filed this Writ Petition.

3. In response, the learned counsel appearing for the petitioner submitted that earlier, this Court has entertained such petitions under Section 482 of Cr.P.C and passed orders. Even in this case, the High Court has directed the trial Court to complete C.C.No.6 of 2019 on a day to day basis, preferably, within a period of one year from the date of receipt of a copy of that order. The learned counsel also shown some orders passed by this Court on the petition filed under Section 482 of Cr.P.C.

3/6



W.P.No.33249 of 2023

WEB COPY

4. The said orders are really not helpful for the Court to decide on the petitioner prayer and the queries raised. This Court is of firm view that in exercising power under Section 482 of Cr.P.C., the accused properties cannot be directed to be attached without following due process. The remedy to the petitioner herein is to approach the concerned Court, where the matter is pending and seek the remedy as per law established. He cannot bypass the procedure and try to get the remedy from the High Court under Section 482 of Cr.P.C. This Court makes it clear that Section 482 of Cr.P.C is not panacea for all the disease. Accordingly, this Writ Petition is dismissed. No costs.

13.12.2023

Index:yes/no
Netural Citation:yes/no
Speaking order/Non speaking order
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To:

4/6



W.P.No.33249 of 2023

WEB COPY

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- 3.Deputy Superintendent of Police, EOW-II, Salem District.
- 4.The Public Prosecutor, High Court, Madras.

DR.G.JAYACHANDRAN,J.

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W.P.No.33249 of 2023

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13.12.2023