



W.P.No.518 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

W.P.No.518 of 2023

S.Muruga Bharathi

... Petitioner

Vs.

1. The Superintendent of Police,
Economic Offences Wing,
SIDCO, Old Corporate Building, First Floor,
Garment Complex II,
Thiru-Vi-ka Industrial Estate, Guindy,
Chennai – 600 032.

2. The Inspector of Police,
Economic Offences Wing,
SIDCO, Old Corporate Building, First Floor,
Garment Complex II,
Thiru-Vi-Ka Industrial Estate, Guindy,
Chennai – 600 032.

3. Santhanakrishnan

4. S.Vatsala

5. S.Arun Subramanian

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India
pleaded to issue a Writ of Mandamus directing the Respondents 1 & 2 to take
appropriate criminal action against respondents 3 to 5 for having dealt with the
properties being (A). the lands comprised in Survey Nos.591/1A and 591/1 of



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Naranapuram village, Palladam Taluk, Tirupur District under (i) the Deed of Lease dated 10.04.2012 registered as Document No.7510 of 2012 in the office of the Sub-Registrar, Palladam and (ii) the Deed of Settlement dated 15.05.2019, registered as Document No.6233 of 2019 in the office of the Sub Registrar, Palladam (B). lands of an extent of 8,400 square feet, comprised in Survey No.152/1 Part and 152/2 Part of Injambakkam Village, situate in Anna Enclave, Injambakkam, Chennai, under two Deeds of Sale (i) dated 16.07.2014 registered as Document No.5027 of 2014 and (ii) dated 14.12.2021 registered as Document No.12206 of 2021 both in the office of the Sub-Registrar, Neelankarai and also having dealt with the property of an extent of 8,555 square feet, comprised in Survey No.152/1 Part and 152/2 Part of Injambakkam Village, situate in Anna Enclave, Injambakkam, Chennai under a Deed of Settlement dated 28.01.2019 registered as Document No.595 of 2019 in the office of the Sub-Registrar, Neelankarai.

For Petitioner : Mr.C.Nagarajan

For Mr.V.G.Suresh Kumar

For R1 & R2 : Mr.S.Santhosh,
Government Advocate (crl.side)

ORDER

This Writ Petition has been filed to direct the Respondents 1 & 2 to take appropriate criminal action against respondents 3 to 5 for having dealt with the properties being (A). the lands comprised in Survey Nos.591/1A and 591/1 of Naranapuram village, Palladam Taluk, Tirupur District under (i) the Deed of Lease dated 10.04.2012 registered as Document No.7510 of 2012 in



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the office of the Sub-Registrar, Palladam and (ii) the Deed of Settlement dated 15.05.2019, registered as Document No.6233 of 2019 in the office of the Sub Registrar, Palladam (B). lands of an extent of 8,400 square feet, comprised in Survey No.152/1 Part and 152/2 Part of Injambakkam Village, situate in Anna Enclave, Injambakkam, Chennai, under two Deeds of Sale (i) dated 16.07.2014 registered as Document No.5027 of 2014 and (ii) dated 14.12.2021 registered as Document No.12206 of 2021 both in the office of the Sub-Registrar, Neelankarai and also having dealt with the property of an extent of 8,555 square feet, comprised in Survey No.152/1 Part and 152/2 Part of Injambakkam Village, situate in Anna Enclave, Injambakkam, Chennai under a Deed of Settlement dated 28.01.2019 registered as Document No.595 of 2019 in the office of the Sub-Registrar, Neelankarai.

2. The learned counsel for the petitioner submitted that already fifty properties had been attached as per the directions of the learned Chief Judge, Court of Small Causes, Chennai passed in CrI.O.P.No.02 of 2003 dated 22.12.2004. The attachment is still in force. Pending attachment, respondents (3 to 5) had created certain encumbrance over the properties as detailed in the prayer. They are not entitled to create encumbrance over the properties when



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attachment is in force. In this regard petitioner had given complaint to the 1st respondent on 24.08.2021 for taking action against R3 to R5. Since, no action was taken, present petition is filed.

3. The learned Government Advocate (Crl. Side) submitted that on the representation given by the petitioner, enquiry was conducted in C.No.252 of 2021 and it is pending for further investigation.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondents.

5. The Division Bench of this Court in ***G.Prabhakaran v. The Superintendent of Police, Thanjavur***, reported in ***(2018) 2 LW Crl 489*** and the Hon'ble Supreme Court in its latest judgment rendered by a three Judge Bench in ***M.Subramaniam v. S.Janaki***, reported in ***(2020) 5 CTC 464***, after relying upon ***Sakiri Vasu's*** Case, has categorically held that the High Court cannot issue any direction for registration of FIR. High Court can intervene only in extraordinary circumstances and rare cases. However, taking note of the fact that the complaint is now pending and enquired, the Investigation officer is



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directed to issue notice to the parties and conduct enquiry as directed by the

Hon'ble Apex Court in the case of ***Lalita Kumari Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)]***. If any cognizable offence is made out, the respondent police is bound to register the FIR otherwise they may close the complaint. Such exercise shall be completed within a period of two weeks from today.

6. With the above directions, this Writ Petition is disposed of.

09.01.2023

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To

1. The Superintendent of Police,
Economic Offences Wing,
SIDCO, Old Corporate Building, First Floor,
Garment Complex II,
Thiru-Vi-ka Industrial Estate, Guindy,
Chennai – 600 032.
2. The Inspector of Police,
Economic Offences Wing,
SIDCO, Old Corporate Building, First Floor,
Garment Complex II,
Thiru-Vi-Ka Industrial Estate, Guindy,
Chennai – 600 032.
3. The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN,J.
Sma

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