



W.P(MD)No.7458 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:15.12.2023

Coram:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

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Karur Vysya Bank,
represented through its
Assistant General Manager,
Asset Recovery Branch,
170/9 Lake Area, Uthangudi Village,
Madurai.

.. Petitioner

/versus/

1.State through Deputy Superintendent of Police
(Department of Vigilance and Anti Corruption),
Madurai.

2.Mr.M.Ravikumar

3.Tmt.R.Tamilarasi

4.T.Pandi

.. Respondents



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Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari by quashing the order of attachment passed by the Hon'ble Special Court for trial of Prevention of Corruption Act in CrI.M.P.No.800 of 2013 in S.C.No.3 of 2013, dated 20.11.2013.

For Petitioner :No appearance

For Respondents :Mr.M.Babu Muthu Meeran
Additional Public Prosecutor for R1
No appearance for R2 and R3

ORDER

This Writ Petition is filed by the Karur Vysya Bank for issuance of Writ of Certiorari to quash an order of attachment passed by the Special Court for trial of Prevention of Corruption Act in CrI.M.P.No.800 of 2013 in S.C.No.3 of 2013 dated 20.11.2013.

2. According to the petitioner-bank, the property which has been attached as a consequence of registering the case for disproportionate asset by the public servant is a subject matter of mortgage of deposit of title deed in favour of the bank for the loan borrowed on 29.08.2012. The second



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respondent Mr.M.Ravikumar, the borrower defaulted in payment of instalment amount. Hence, action has been taken under SARFAESI Act for recovery of the money and for the said purpose, when the encumbrance certificate was obtained, the bank has found that the property has been attached consequence to the order passed by the Special Court for trial of Prevention of Corruption Act as per the Criminal Law Amendment Ordinance 1944.

3. The contention of the petitioner-bank is that as per Section 4(3) of the Criminal Law Amendment Ordinance 1944, before attachment of the property, “notice shall be served to all the persons likely to claim any interest or title in the property”. Even though the petitioner bank is having a charge over the property attached by them, no notice was served to the bank before making such attachment. Contending that attachment of the property without notice to the bank, which is having charge over it, is in violation of Section 4(3) of the Criminal Law Amendment Ordinance 1944, the present Writ Petition is filed.



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4. The memorandum, counter and objection are filed by the respondent police, wherein it is stated that First Information Report regarding disproportionate asset was registered in Crime No.2 of 2012 on the premise that the first accused R.Tamilrasi, Wife of M.Ravikumar, Formerly Minister for Adi Dravidar Welfare, Government of Tamil Nadu during the period from 2006 to 2011 as a public servant has amassed wealth disproportionate to the known source of income in her name and her husband and therefore, on completion of investigation, final report was filed and taking cognizance in Spl.Case N.3 of 2013. The properties acquired through illegal source were attached by an order dated 20.11.2013. The alleged mortgage of title deed was after registration of the First Information Report. The attachment under the Criminal Law Amendment Ordinance has primacy and priority over all other charges whether statutory or non-statutory and the ill-gotten property cannot be landed by creating charge for availing the loan from the bank.



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5. According to the counter as well as finality reached in the criminal case and final order passed regarding the property attached, the bank cannot have a priority over the property and seek for raising the attachment. If the prayer of the petitioner-bank is accepted, all the culprits to amass wealth through illegal means will create mortgage and save their property.

6. Therefore, this Court finds no reason to entertain this Writ Petition. Accordingly, this Writ Petition is dismissed with liberty to the petitioner to approach appropriate court concerned, after the criminal case reaches its logical end.

15.12.2023

Index:yes/no
Internet:yes/no
Speaking order/non speaking order
Neutral Citation:yes/no
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To

1.The Deputy Superintendent of Police
(Department of Vigilance and Anti Corruption),
Madurai.

2.The Public Prosecutor, High Court, Madras.



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DR.G.JAYACHANDRAN,J.

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