



W.P.(MD) No.14502 of 2013.

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.14502 of 2013
and
M.P.(MD) Nos.2 and 3 of 2013**

1.G.Vinoth

2.S.Joshuva Rajaiah

... Petitioners

/vs./

1.The District Revenue Officer and
Competent Authority,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai North Taluk,
Madurai.

3.K.L.Subramanian

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order vide Na.Ka.No.103657/2004/The.3 dated 12.10.2012 passed by the 1st respondent and quash the same in so far as the petitioners' properties in Survey



W.P.(MD) No.14502 of 2013.

WEB COPY

No.128/2 and subsequently survey No.128/8 and UDR, Re survey No.2/8, Kadachanenthall Village, Narasingam II Beat, Madurai.

For Petitioners	: Mr.S.Anwar Sameem
For R1 & R2	: Mrs.D.Farjana Ghoushia Special Government Pleader

ORDER

The writ petition has been filed by the petitioners challenging the order issued by the first respondent calling upon the second respondent to take appropriate action to bring the properties belonging to the petitioners under its control, to fix the rent and to collect the same from the petitioners, who are the occupiers of the property.

2.Heard Mr.S.Anwar Sameem, learned counsel for the petitioners and Mrs.D.Farjana Ghoushia, learned Special Government Pleader for the respondents 1 and 2.

3.Mr.S.Anwar Sameem, learned counsel for the petitioners would submit that the property originally belongs to one Sambamoorthy, who through his power of attorney, K.L.Subramanian, had sold the property in favour of one M/s.Rohini.



W.P.(MD) No.14502 of 2013.

WEB COPY

From the said Rohini, the first petitioner has purchased the property in and by a sale deed registered on 21.11.2001 and the second petitioner had purchased the property in and by a registered sale deed dated 07.01.2002 and they have been in peaceful possession and enjoyment of the property by constructing their residential houses in their respective properties.

4.While so, to the shock and surprise, they had come to know that the property was the subject matter of an attachment under the TNPID Act, pursuant to a Government Order made in G.O.Ms.No.569, Home (Courts III A) Department, dated 18.06.2001. Immediately on coming to know of the same the petitioners have approached the concerned Court by filing applications in O.A.Nos.4 and 5 of 2009 seeking to raise an order of interim attachment as against the properties purchased by the petitioners, which had been dismissed for default. He would also bring to the notice of this Court that the competent authority had also filed O.A.No.5 of 2016 seeking to make the order of interim attachment absolute and the application is pending consideration by the appropriate Court. The impugned order has been passed on 12.10.2012 by the



W.P.(MD) No.14502 of 2013.

WEB COPY

competent authority, namely the first respondent directing the second respondent to take possession of the property and fix the rent to the property.

5.Countering his arguments, Mrs.D.Farjana Ghoushia, learned Special Government Pleader for the respondents 1 and 2 would bring to my notice that the petitioners are the subsequent purchasers after the order of interim attachment. Hence, she would submit that the purchase made by the petitioners itself is non-est and null and void. She would also submit that an application has been filed by the competent authority in O.A.No.5 of 2016 seeking to make the order of attachment absolute. Therefore, she would submit that when an order of interim attachment has already been made, the competent authority was right in issuing such directions to the second respondent to take possession of the property and to fix the rent.

6.In reply, learned counsel for the petitioners would submit that the order of interim attachment was not reflected in the encumbrance certificate. If such an encumbrance had been reflected in the office of the Sub Registrar, the petitioners



W.P.(MD) No.14502 of 2013.

WEB COPY

would not venture into purchasing the property at all. They are the *bona fide* purchasers.

7.I have considered the rival submissions made by the learned counsels appearing on either side.

8.In view of the pendency of the applications filed by the first respondent before the competent Court, namely TNPID Court, Madurai, in which the petitioners are also the parties, I do not propose to venture into the merits of the arguments raised by the learned counsels appearing on either side. However, I direct the Special Court (under TNPID Act), Madurai to dispose of the application filed by the competent authority in O.A.No.5 of 2016 as expeditiously as possible, but not later than three months from the date of receipt of a copy of this order. This direction is issued keeping in mind that the special enactment was passed by the Government taking into account the delay that would be caused by the general enactment. But unfortunately, even under the special enactment, the proceedings have been kept pending for almost more than two decades. The



W.P.(MD) No.14502 of 2013.

impugned order in this writ petition shall be kept in abeyance till the final orders are passed by the concerned Court in O.A.No.5 of 2016.

9.With the above direction, the Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

25.01.2023

mm

To

1.The District Revenue Officer and
Competent Authority,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai North Taluk,
Madurai.



WEB COPY



W.P.(MD) No.14502 of 2013.

K.KUMARESH BABU, J.

mm

W.P.(MD) No.14502 of 2013

25.01.2023