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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation : 26/06/2023

Date of Pronouncement : 14/07/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

WP (MD) No. 10933 of 2023

and

MWP (MD) Nos. 9571, 9574 and 11005 of 2023

T. Balathandayutham
rep. by his Special Power of Attorney
Mr. Rajasekar : Petitioner

Vs.

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome High Road, Pattinappakkam,
Chennai-600 028.
2. The Deputy Inspector General of Registration,
Registration Department Integrated Complex,
Near New Collectorate, Thanjavur-613 010.
3. The District Registrar,
Thanjavur District.
4. The Sub Registrar,
Thanjavur Joint-I,
Thanjavur District.
5. The Sub Registrar,
Karunthattankudi Sub Registrar Office,
Thanjavur District.
6. The Superintendent of Police,
Thoothukudi District.
7. The Inspector of Police,
Kulathur Police Station,
Thoothukudi District.



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8. Anandha Thandavam,
Inspector of Police (Under suspension)
Kulathur Police Station,
Thoothukudi District.

9. B. Meenakshi

: Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, in the nature of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Non-Traceable Certificate, dated 07/07/2022 issued by the 7th respondent and quash the same as illegal and consequently, direct the 6th respondent to take appropriate action against the 8th and 9th respondents, based on the representation, dated 11/02/2023 and pass such other orders.

For Petitioner : Mr. V. Sasikumar

For R1 to R8 : Mr. B. Nambiselvan
Additional Public Prosecutor

For 9th Respondent : No appearance

O R D E R

This writ petition is filed seeking quashment of the impugned Non-Traceable Certificate, dated 07/07/2022 issued by the 7th respondent and consequently, to direct the 6th respondent to take appropriate action against the 8th and 9th respondents, based on the representation, dated 11/02/2023.

**2. The facts in brief:-**

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The marriage between the petitioner and the 9th respondent was performed, on 27/09/2006. Out of the wedlock, two children were born to them. The petitioner was living in Dubai. Used to visit occasionally to India. At that time, he used to stay with 9th respondent and the children. The 9th respondent is the house wife, having no independent income. The petitioner purchased properties in and around Thanjavur, of course, in the name of his wife. The above said properties were purchased for his own benefit and out of his own income. They harvest paddy by raising money through loan. He is regularly paying installments. The 9th respondent, even though, has no right over the properties, continued to be in possession. In April 2019, difference of opinion arose between them as if the petitioner is having illicit intimacy with some woman. So, she lodged a complaint with the All Women Police Station, Thanjavur.

3. Taking advantage of the difference of opinion between the husband and wife, some persons induced the 9th respondent to encumber the property. When the original



4. On coming to know about the illegal act, he sent a complaint, on 11/02/2023 to the 6th respondent to cancel the above said Non-Traceable Certificate. But no action has been taken.

5. Seeking a Writ of Mandamus to set aside the non-traceable certificate issued by the 8th respondent, dated 07/07/2002, this writ petition has been filed.



6. Notice was ordered to the 9th respondent. Even though, the 9th respondent was served, on 17/06/2003. she has not chosen to appear. The learned Additional Public Prosecutor took notice for the respondents 1 to 8. The petitioner heard, so also the learned Additional Public Prosecutor appearing for the respondents 1 to 8.

7. When the matter was taken up for hearing, this court directed the petitioner to produce the original document in respect of the property and he has also produced the original document before this court, which *prima facie* shows that the original document concerning the property is in the custody of the petitioner. Suppressing the issue between herself and the petitioner, non-traceable certificate has been obtained by the 9th respondent.

8. It is also seen that before issuing the above said certificate, no enquiry was undertaken by the 8th respondent as per the circular that was issued by DGP in Rc.No.2029209/General.1(1)/2022, dated 01/04/2022.



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9. Further, it is seen that in pursuance of the above said Non-traceable certificate issued by the 8th respondent, the 9th respondent attempted to execute a power of attorney in favour of one Alagiribalan. He made arrangement before the Sub Registrar, Karaikudi. At that time, this petitioner made objection stating that the original document is available with him and he is the owner of the property. On the basis of the above said objection raised by the petitioner, the Sub-Registrar, Karaikudi, refused to receive the above said power of attorney document and register. Challenging the above said order, the 9th respondent filed WP(MD)No.26372 of 2022 before this court and that was ordered, dated 22.11.2022 directing the official respondent namely the Sub-Registrar, Karunthattankudi, Thanjavur to conduct enquiry and decide the issue. Subsequent to the above said order, the above said power of attorney deed was also registered, on 08/02/2023. Since the original document is in the custody of the petitioner, the non-traceable certificate that was issued by the 8th respondent is *non-est* in law. On that count, this writ petition is liable to be allowed.



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10. In the result, this writ petition stands **allowed**, the impugned Non Traceable Certificate, dated 07/07/2022 issued by the 8th respondent is hereby quashed. No costs. Consequently, connected Miscellaneous Petitions are closed.

14/07/2023

Index:Yes/No
Internet:Yes/No
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To,

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Santhome High Road,
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- 9.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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WP (MD) No.10933 of 2023

14/07/2023



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