



W.P.(MD)No.18801 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.18801 of 2020

M.Bright Jose

... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Economic Offence Wing-II, Nagercoil,
Kanyakumari District.

2.The Inspector of Police,
Economic Offence Wing-II, Nagercoil,
Kanyakumari District.

3.The District Revenue Officer,
Nagercoil, Kanyakumari District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to remove the seal affixed upon a portion in the eastern side of the 1st Floor of Petitioner's shop property in Re-Survey No.223/2A Kalkulam Taluk, Valvatchagostam Village, Kaviyaloor, Kanyakumari District and take away all the articles belongings there from and hand over vacant possession of the said property to the petitioner in the light of the Petitioner's representations dated 27.10.2020 and 05.12.2020 within a reasonable time period to be fixed by this Court.



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For Petitioner	: Mr.N.Dilip Kumar
For R-1 & R-2	: Mr.R.Sivakumar, Government Advocate (Criminal Side)
For R-3	: Ms.D.Farjana Ghoushia, Special Government Pleader

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the respondents to remove the seal affixed in one portion of the property and to hand over the vacant portion of the said portion to the petitioner by considering the representations made by the petitioner on 27.10.2010 and 05.12.2020.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for respondent Nos.1 and 2 and the learned Special Government Pleader appearing for the third respondent.

3. The subject property was attached during the pendency of the investigation in Crime Nos.8 and 9 of 2005 under the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act,



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1997. This property was brought for sale and the petitioner had purchased the property through a sale deed dated 29.03.2012 registered as Document No.1027 of 2012. Subsequently, the patta was also issued in favour of the petitioner in Patta No.4898.

4. The grievance of the petitioner is that one portion in the property, viz., the Eastern side of the first floor has been kept under lock and seal on the ground that the properties that pertains to the criminal case is kept inside this portion. The petitioner made a representation to the Police to remove the lock and seal and to take away the stored materials in order to enable the petitioner to take over vacant possession of the said portion of the property. Since the same was not considered, the present Writ Petition has been filed before this Court.

5. The first respondent has filed a status report. The relevant portions in the status report are extracted hereunder:

*“2. I respectfully submit that, on 21.07.2005
on the complaint of one Poomathy,
W/o.Thangappan, Vaniyakudi, Kaniyakumari*



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District two cases in EOW-II, Nagercoil Crime Nos.8/2005 and 9/2005, under Section 420, r/w 34 I.P.C. and Section 5 of TANPID Act, 1997, were registered against SUS Bankers with 13 branches, which were jointly run by 1)Thirumal. S/o. Anthony Muthu 2) Saroja Thirumal, W/o.Thirumal and 3). Unni Sankar, s/o.Thirumal by obtaining Pawn Broker license and Money lending license. They collected deposits and fixed deposit from the public and converted the same to their own use and defaulted to refund to a tune of Rs.22,58,62,241/- from 2191 depositors. The cases were charged on 30.06.2010 and taken on file in C.C.No.23/2010 to 35/2020 before TANPID Court, Madurai. The AI Accused Thirumal expired on 20.04.2005 and the charges against him abated. During course of trial so far the accused have settled a sum of Rs.2,92,68,491/- to 523 depositors through TANPID Court, Madurai. The accused have settled C.C.Nos.23, 31, 32 and 34 of 2010 and thus the same were closed. The remaining liabilities Rs.19,65,93,750/- for 1668 depositors. The case is posted on 30.10.2023 for examination of witnesses,



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3. *I respectfully submit that during course of investigation the properties of the accused were identified in various places and were attached to the Government vide 1) G.O.Ms.No.1078/09, dated:17.12.2009. (2). G.O.Ms.No.392/2012, dated 04.06.2012. 3).G.O.Ms.No.380 of 2015, dated 04.05.2015 4).G.O.Ms.No.585/2015, dated 07.08.2015, On receipt of Government Orders, the Competent Authority / DRO, Kanyakumari District has filed 1) OA 09/16, 2)OA.06/2013, 3)OA.08/15, 04).OA.02/16 respectively before the Hon'ble TANPID Court, Madurai, for absolute orders. The attached properties are sufficient to meet out full settlement. The OA.06/2013, OA. 08/15, OA/02/16 AND OA.09/16 were got absolute on 21.12.2016, 09.12.2016, 29.11.2016 and 26.09.2018.*

4. *I respectfully submit that, on 15.10.2020, the DRO, Nagercoil conducted auction sale on three properties in O.A.No.02/16 and two properties in O.A.No.08/15 totally worth of Rs. 3.,13,60,000/-.*

On 10.01.20203, the DRO, Nagercoil conducted auction sale on 1 item of property of



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O.A.No.09/16 in G.O.Ms.No.1078/2009 dated 17.12.2009 and 1 item of property of O.A.No. 06/13 in G.O.Ms.No.392/2012, dated 04.06.2012 totally worth of Rs.1,31,42,484/-.

5. I respectfully submit that the petitioner purchased land with building in Re.Survey No. 223/2A, Valvachagostam Village of Kalkulam Taluk in Kanyakumari District includes in G.O.Ms.No.1078/2009, dated 17.12.2009 through the Hon'ble TANPID Court, Madurai, by filing O.A.20/2011 is accepted. But the petitioner did not raise this matter before the Hon'ble trial Court. Now, one of the affected depositors namely Chithambara Krishnan drafted a letter addressing to ADGP EOW, Chennai, stating that one sealed locker is inside the said property and the same is on the possession of the petitioner. So, the petitioner was summoned and examined by the then investigation officer. On enquiry, it reveals that the locker was sealed by the then Investigation Officer. After that, the petitioner filed this writ petition in W.P.(MD).No.18801/20 for directing the respondents to remove the seal affixed upon a portion in the eastern side of the first floor of the petitioner's shop property in



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*Re.Sy.No.223/2A. Kalkulam Taluk,
Valvachakostam Village, Kaviyaloor, K.K.Dist.
Hence, the counter affidavit had filed by the then
Investigation Officer on December 2020, though
the above said locker was on the possession of the
accused upto 2012 and onwards the petitioner's
possession and pass necessary orders and to
instruct the petitioner and the accused must be
presented at the time of opening the seal of the
locker."*

6. The learned counsel appearing for the petitioner submitted that he has no objection for the lock and seal being removed and the materials kept inside being taken over by the Police.

7. The learned Government Advocate appearing on behalf of respondent Nos.1 and 2 submitted that the lock and seal will be removed in the presence of the accused and materials kept inside the property will be taken over by the respondent Police.

8. In the light of the status report filed before this Court and in the light of the submissions made on either side, there shall be a direction



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to the second respondent to fix a date for removal of the lock and seal from the portion in the Eastern side of the first floor of the property. The said date shall be notified to the accused persons as well as to the petitioner. On that day, the lock and seal shall be removed and the materials available inside the property shall be taken over by the second respondent after preparing an inventory and the vacant possession of the portion of the property shall be handed over to the petitioner. This process shall be completed by the second respondent within a period of four (4) weeks from the date of receipt of a copy of this order.

9. This Writ Petition is disposed of with the above directions,

No costs.

09.10.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
tsg



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To

- 1.The Deputy Superintendent of Police,
Economic Offence Wing-II, Nagercoil,
Kanyakumari District.
- 2.The Inspector of Police,
Economic Offence Wing-II, Nagercoil,
Kanyakumari District.
- 3.The District Revenue Officer,
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N.ANAND VENKATESH, J.

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