



WP(MD)Nos.24433, 24750, 24751 and 24752 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10/11/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

WP(MD)Nos.24433, 24750, 24751 and 24752 of 2023

and

WMP(MD)Nos.20622, 20624, 20929, 20931, 20933, 20935, 20937, 20932, 20934 and 20936 of 2023

(1)WP(MD)No.24433 of 2023:-

M.Basheer Ahamed
Through his Power Agent,
S.Ganapathi Subramaniam : Petitioner

Vs.

- 1.The Deputy Superintendent of Police,
Economic Offences Wing,
Trichy Region,
Trichy District.
- 2.The Deputy Inspector General of Registration,
Thanjavur Zone,
Thanjavur.
- 3.The District Registrar (Administration),
Thanjavur District, Thanjavur.
- 4.The Sub Registrar,
Aiyyampettai Railway Station Road,
Aiyyampettai, Thanjavur District. : Respondents

PRAYER:-Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the impugned order of the 1st respondent in C.No.256-343/DSP/EOW/Trichy/2023, dated 20/07/2023 and to the consequential Order of the 2nd respondent, dated 21/07/2023 in Me.Va.No.-2145/AA/2023



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and to the consequential to the Order of the 3rd respondent passed in Na.Ka.No.2738/AA1/2023, dated 16/08/2023 and quash the same in so far as the petitioner's properties are concerned and to pass such further or other orders.

For Petitioner : Mr.I.Robert Chandrakumar
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor

(2)WP(MD)No.24750 of 2023:-

Mr.A.Abdul Gani : Petitioner

Vs.

- 1.The Deputy Superintendent of Police,
Economic Offence Wing,
Trichy District.
- 2.The District Registrar (Administration),
Office of the District Registrar,
Integrated Complex,
Pillaiyarpatti,
Thanjavur.
- 3.Joint-I Sub-Registrar,
Joint Sub-Registrar Office,
Poonga, Nearby Old Bus Stand,
Thanjavur District.
- 4.The Sub-Registrar,
Vallam,
Thanjavur District.
- 5.The Sub-Registrar,
Maharnonbu Chavadi,
Thanjavur District.
- 6.The Deputy Superintendent of Police,
District Crime Branch,
Thanjavur District.
(Crime No.78 of 2021) : Respondents



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PRAYER:-Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the impugned order of the 1st respondent in C.No.256-343/DSP/EOW/TRICHY/2023, dated 20/07/2023 in respect of the property described in S.No.20 comprised in Survey No.324/2E situated at Plot No.5, Admeasuring to an extent of 3168 square feet situated at Kani Nagar, Soolamangalam Village, Papanasam Taluk, Thanjavur District and to quash the same and to pass such further or other orders.

For Petitioner : Mr.Akhil Akbar Ali
for M/s.Akhil Akbar Ali Associates

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor

(3)WP(MD)No.24751 of 2023:-

1.Mr.M.Jainul Aabideen
2.Mrs.J.Ameer Jan Begum
3.Mr.J.Muhammad Yahya
4.Mr.J.Abdul Jaleel : Petitioners

Vs.

1.The Deputy Superintendent of Police,
Economic Offence Wing,
Trichy District.
2.The District Registrar (Administration),
Office of the District Registrar,
Integrated Complex,
Pillaiyarpatti,
Thanjavur District.



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4. Joint-I Sub-Registrar,
Joint Sub-Registrar Office,
Poonga, Nearby Old Bus Stand,
Thanjavur District.

5. The Sub-Registrar,
Maharnonbu Chavadi,
Thanjavur District.

6. The Deputy Superintendent of Police,
District Crime Branch,
Thanjavur District.
(Crime No.78/2021)

: Respondents

PRAYER:-Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the impugned order of the 1st respondent in C.No.256-343/DSP/EOW/TRICHY/2023, dated 20/07/2023 in its entirety or in respect of the property described in S.No.19 comprised in Survey No. 330-5A, admeasuring to an extent of 3016 square feet along with a RCC house situated at Soolamangalam-2, Sethi Village, Papanasam Taluk, Thanjavur District and to quash the same and to pass such further or other orders.

For Petitioners : Mr.Akhil Akbar Ali
for M/s.Akhil Akbar Ali Associates

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor



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(4) WP (MD) No.24752 of 2023:-

1.Mr.K.Afsal Rahman
2.Mrs.A.Rehena Begum
3.K.Harris Rahman : Petitioners

Vs.

- 1.The Deputy Superintendent of Police,
Economic Offence Wing,
Trichy District.
- 2.The District Registrar (Administration),
Office of the District Registrar,
Integrated Complex,
Pillaiyarpatti,
Thanjavur District.
- 3.Joint-I Sub-Registrar,
Joint Sub-Registrar Office,
Poonga, Nearby Old Bus Stand,
Thanjavur District.
- 4.The Sub-Registrar,
Vallam,
Thanjavur District.
- 5.The Sub-Registrar,
Maharnonbu Chavadi,
Thanjavur District.
- 6.The Deputy Superintendent of Police,
District Crime Branch,
Thanjavur District.
(Crime No.78 of 2021) : Respondents

PRAYER:-Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the impugned order of the 1st respondent in C.No.256-343/DSP/EOW/TRICHY/2023, dated 20/07/2023 in its entirety or in respect of the property described in S.No.19 comprised in Survey No.



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330-5A, admeasuring to an extent of 3016 square feet along with a RCC house situated at Soolamangalam-2, Sethi Village, Papanasam Taluk, Thanjavur District and to quash the same and to pass such further or other orders.

For Petitioners : Mr.Akhil Akbar Ali
for M/s.Akhil Akbar Ali Associates

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor

COMMON ORDER

These writ petitions have been filed seeking quashment of the impugned orders of the 1st respondent passed in C.No.256-343/DSP/EOW/TRICHY/2023, dated 20/07/2023.

2.The facts in brief:-

The de-facto complainant namely A.W.Thameer Ansari filed a complaint with the following facts:-

He was doing some business in abroad and also working in a reputed Company for some time. During that period, he used to visit his native place frequently. At that time, one A.Adul Kani and his brother came. He was told that one Kamaludeen investing money in the transport business and earning huge profit. He intended to receive



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deposits from him. On the basis of the promise made by them, he invested totally Rs.15,00,000/-. Towards the acknowledgement of the amount, they also received bonds. In-spite of the repeated demands, amount was not returned and profit was also not given. Kamaludeen died, on 19/01/2021. He visited the office and found locked. Enquiry reveals that several persons have been cheated by those persons in a like manner. On the basis of the complaint given by the de-facto complainant, a case in Crime No.78 of 2021 was registered for the offences under sections 406 and 420 IPC.

3. Pending investigation, it was found that investment has been made by the accused persons in various names, various companies, etc. On the basis of the above said finding, the case was altered to 406, 420, 120(B) IPC and section 5 of the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997 (hereinafter referred as 'TNPID Act') and sections 3, 5, 21(1)(2)(3), 23 & 25 of the Banning Unregulated Deposit Schemes Act, 2019 (hereinafter referred as 'BUDS Act'). Totally, 6560 complaints have been received. The total amount cheated by the accused runs to Rs.417 Crores. The following properties were found to be purchased, as noted above, in various companies name.



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சொத்துக்கள் பட்டியல்

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வ. எண்	எழுதி கொடுத்தவர்	எழுதி வாங்கியவர்	விற்பனை	சர்வே எண்	சொத்தின் அளவு	வழிகாட்டுதல் மதிப்பு
1.	முகமதுரபீக்	அப்சல் ரகுமான் 1385/18	காந்திமதி 2994/18 08.03.2019	கொல்லாய் கரை107 C	மனை -1 2107.5 சதுரஅடி	1,68,600
2.	1.ஜேம்ஸ் 2.ராஜா	கமாலுதீன் 1298/17	1.ஆவுடை யப்பன் (12,13,14) 3271/20 29.07.2020 2.சரவணன் (15) 3570/20 13.08.2020	நாஞ்சிக் கோட்டை 118/2 New 118/6	மீனாட்சி நகர் மனைஎன்க ள் (12,13,14,15) 9600 சதுரஅடி	32,16,000
3.	1.ஜேம்ஸ் 2.ராஜா	கமாலுதீன் 1299/17	சரவணன் (16) 3085/20 20.07.2020	நாஞ்சிக் கோட்டை 118/2 New 118/2A2	மீனாட்சி நகர் மனைஎன் (16) 3593 சதுரஅடி	12,03,655
4.	ஜெயலட்சுமி	அப்சல் ரகுமான் 3181/21 Powerdeed ராஹத் அப்சல் கார்டன் மனைகள்-36 7,12,13,14, 15,16,20,21,	புளியந்தோப்பு 3134/5,6,7,8,9 1.அஸ்ரப் நிஸா 3213/21 25.06.2021 2.ஜீனத்க னி 3214/21 25.06.2021 3.அகமது இப்ராஹீம்	16.1.அமீர்அ ஹமது 2.தீனுசா 1229/2023 16.02.23 17.சம்சாத் பேகம் 1230/2023 16.02.2023 18. ஜியாவுதீன்	34,649 Sq.ft.	4,15,78,800



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			4951/21 07.09.2021	3982/2023 01.06.2023		
			14.எப்.பி ரோஸ்லின் 5922/21 13.10.2021	29.4578/23 முகமதுரியா சுதீன் 26.06.2023		
			15.சகபர்சா திக் 3786/22 02.06.2022	30.4607/23 அப்துல்ரஜி த் 27.06.2023		
				31.4608/23 4609/2023 கத்திஜாம்ம ான் 27.06.23		
5.	M.சுல்தான்	கமாலுதீன் 406/1996	மும்தாஜ் பேகம் 3132/09 08.10.2009	செருமாக்கந ல்ஹர் 304-9	1500 சதுரஅடி	3,15,000
6.	M.சுல்தான்	கமாலுதீன் 406/1996	கத்திஜத் துல்குப்ரா 3133/09 08.10.2009	செருமாக்கந ல்ஹர் 304-9	1500 சதுரஅடி	3,15,000
7.	துரைராஜ்	கமாலுதீன் 1826/11	ரமேஷ் 389/21	சாலியாமங்க லம் 92/1, 92/1C	3355 சதுரஅடி	2,24,785
8.	1.J.ராமமூர்த்தி 2.ஆறுமுகம்	அப்துல்கனி 471/2015	1.வழுத்தூ ர் 463/8 10.75	கல்தான் சலாஹிதின் 1018/19 14.08.2019	2752 சதுரஅடி மனைஎண்-(1)	2,40,908
	1.சுகுமார் 2.முருகேசன்	அப்துல்கனி 520/15	ஏர்ஸ் 2.வழுத்தூ ர் 462/2	பஷீர் அகம து 24/21 25.03.2021	2078 சதுரஅடி மனைஎண்-(2)	
	அப்துல்குத்தூ ஸ்	அப்துல்கனி 1661/15	21.5 ஏர்ஸ்	பஷீர் அகம து 25/21 25.03.2021	2059 சதுரஅடி மனைஎண்-(3)	
	அப்துல்ஹக் ம்	அப்துல்கனி 702/16	3.வழுத்தூ ர் 462/3 58.5 ஏர்ஸ்	நசீமாஆப்ரி ன் 690/19 31.05.2019	2127 சதுரஅடி மனைஎண்-(4)	
				ஹபீபுல்லா ன் 639/21 10.06.2021	2028 சதுரஅடி மனைஎண்-(5)	



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			4.வழுத்தார் 462/1 20.5 ஏர்ஸ்	அப்துல்காதர் பாட்சா 613/16 05.05.2016	2786 சதுரஅடி மனைஎண்-(6)	
			462/2 17.0 ஏர்ஸ்	முகமது ஜபருல்லா 1068/19 27.08.2019	2029.5 சதுரஅடி மனைஎண்-(7)	
			463/8 11.75 ஏர்ஸ்	கபைதா பானு 450/21 30.03.2021	2073 சதுரஅடி மனைஎண்-(8)	
				கபைதா பானு 449/21 30.03.2021	2113.5 சதுரஅடி மனைஅடி(9)	
				முஹம்மதுசலிமுத்தீன் 1053/19 22.08.2019	2154 துரஅடி மனைஅடி(10)	
				சரிபாகனி 525/21 19.04.2021	2367சதுரஅடி மனைஎண்-11	
				ஜெயனுஷா பபுதீன் 501/2 15.04.2021	9765 சதுரஅடி மனைஎண்-(35,39,40, 41)	
				நூர்ஜஹான் 470/21 08.04.2021	2447 சதுரஅடி மனைஎண்-38	
9.	துரைராஜ்	அப்துல்கனி 407/18	தாஜிதீன் 878/22 01.06.22	பசுபதிவேலில் 252/11 252/12 252/13	20.75ஏர்ஸ்	1,28,235
10.	உஷா	கமாலதீன் 733/18	பவதீ அமலது 1348/20 24.11.2020	நக்ஸிச்சேரி 106/1A 106/1C 106/2 568/A1 (பசுபதிவேலில்)	36.5ஏர்ஸ்	4,32,932



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11.	பார்த்தசாரதி	கமாலுதீன் 734/18	பவதீர் அகம து 1349/20 24.11.2020	நல்லிச்சேரி 106/1B 107/1A 107/1B 110/1	79.5 ஏர்ஸ்	3,97,897
12	கோமதி	அப்சல் ரகுமான் 1084/18 (1 ஹெக்டேர் 99 ஏர்ஸ்) 221/ 3 57.5 ஏர்ஸ் 223/ 3 86 ஏர்ஸ் 226/ 1 33.5 ஏர்ஸ் 226/ 6 22 ஏர்ஸ்	ஜெமிலம்ம ரா 2252/21 22.10.21	ஜெம்புகாம்பாள்புரம் 223/3 - 86 ஏர்ஸ் 224/6 - 4.5 ஏர்ஸ் 226/1 - 33.5 ஏர்ஸ் 226/6 - 64 ஏர்ஸ் 224/3 - 13 ஏர்ஸ் 224/4 - 46 ஏர்ஸ் 224/5 - 19 ஏர்ஸ் 227/1 - 1 ஹெக்டேர் 26 ஏர்ஸ் 228 - 1 ஹெக்டேர் 64.5 ஏர்ஸ் 210/4 - 74.5 ஏர்ஸ் 224/1 - 27 ஏர்ஸ் 224/2 - 20 ஏர்ஸ் 224/9 - 15.5 ஏர்ஸ் 224/10 - 18.5 ஏர்ஸ் 224/11 - 31.5 ஏர்ஸ் 229/1 - 9 ஏர்ஸ் 229/3 - 16.5 ஏர்ஸ் 229/4 - 21 ஏர்ஸ் 229/5 - 19 ஏர்ஸ் 229/5 - 26.5 ஏர்ஸ் 230/10 - 11 ஏர்ஸ் 230/11 - 10 ஏர்ஸ் 230/12 - 9.5 ஏர்ஸ்	64,50,120	
13.	சேவற்கொடி	அப்சல் ரகுமான் 1085/18 225 2 ஹெக்டேர் 2.5 ஏர்ஸ்	சமீராபானு 2248/21 22.10.21			
14.	K.M.சங்கர் த/பெ.காளிய ப்பன்	அப்சல் ரகுமான் 1086/18 (2 hector 80.5 ares) 224/ 3, 13 ஏர் ஸ் 224/ 4 46 ஏர் ஸ் 224/ 5, 19 ஏர் ஸ் 226/ 6, 42 ஏர் ஸ் 227/ 1, 1 ஹெ க்டேர் 26 ஏர்ஸ்	பக்ருதீன் 2253/21 22.10.21 ஜெமிலம்ம ரா 2252/21 22.10.21			



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15.	இளங்கோ	228	34.5 ஏர்ஸ்	பக்ருதீன் 2253/21 & 2254/21 22.10.21 சமீராபானு 2248/21 22.10.21 ஜெமிலம்ம 2252/21 22.10.21
		அப்சல் ரகுமான் 1087/18 (4ஹெக்டேர் 51 ஏர்ஸ்)		
		210/ 4,	74.5 ஏர்ஸ்	
		224/ 1,	27 ஏர்ஸ்	
		224/ 2,	7 ஏர்ஸ்	
		224/ 6,	4.5 ஏர்ஸ்	
		224/ 9,	15.5 ஏர்ஸ்	
		224/ 10,	18.5 ஏர்ஸ்	
		224/ 11,	31.5 ஏர்ஸ்	
		225,	9 ஏர்ஸ்	
		228,	1ஹெ க்டர்30ஏர் ஸ்	
		229/ 1,	9 ஏர்ஸ்	
		229/ 3,	16.5 ஏர்ஸ்	
		229/ 4,	21 ஏர்ஸ்	
		229/ 5,	19 ஏர்ஸ்	
		229/ 8,	26.5 ஏர்ஸ்	
		230/ 10,	11 ஏர்ஸ்	
		230/ 11,	10 ஏர்ஸ்	



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		230/ 12, ஏர்ஸ்	9.5 ஏர்ஸ்		
		230/ 13 ஏர்ஸ்	11.5 ஏர்ஸ்		
16.	புஷ்பவள்ளி	அப்சல் ரகுமான் 293/20 13 ஏர்ஸ் 224/2	பக்ருதீன் 2254/21 22.10.21		
17.	மகேந்திரன் த/பெ. கந்தசாமி	கமாலுதீன் 1568/2015 (6 ஹெக்டர் 81 ஏர்ஸ்) 88-1.73.5 ஏர்ஸ் 91-1.84.5 ஏர்ஸ் 98-2.02.25 ஏர்ஸ் 92-0.87.85 ஏர்ஸ்	மகேந்திரன் த/பெ. K.R.கந்தசாமி 1580/21 15.09.21	அரவகுஞ்சி தாலுக்கா (கோடந்தூர் 88-1.73.5 91-1.84.5 98-2.02.25 92-0.87.85 (6 ஹெக்டர் 81 ஏர்ஸ்)	35,82,460
18.	கந்தசாமி த/பெ. செல்லப்ப கவுண்டர்	1.கமாலுதீன் 2.மகேந்திரன் 202/2018 39/B - 1 ஹெக்டேர் 47.37 ஏர்ஸ், 47/1- 44.5ஏர்ஸ், 48/1-40 ஏர்ஸ். 1.ரேஹானா பேகம் 2.அப்சல் ரகுமான் 3.ஹாரீஸ் ரகுமான்	மகேந்திரன் த/பெ. K.R.கந்தசாமி 977/22 01.04.2022	அரவகுஞ்சி தாலுக்கா (கோடந்தூர் 39/B 73.68 ஏர்ஸ் 47/1 22.25 ஏர்ஸ் 48/1 20 ஏர்ஸ் (1 ஹெக்டர் 15 ஏர்ஸ்)	5,71,550



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19.	கமாலுதீன் (செட்டில்மென் L)	ரேஹானா பேகம் 964/06	1.கமாலுதீ ன் 1033/2012 2.அப்துல் நசீர் 65/2013, 3.லைலாஜ ான் 786/2016 4.ஜெயினு ல்ஆபுதீன் + 3 1291/2022	RCC ஒட்டு 330-5A, 330/5B, 330/6 3016 சதுரஅடி (வீடு)	38,066
20.	ரேஹானாபேக ம் பாத்தியவிடுத லை பத்திரம் 251/20	முகமது அப்துலஹீர்	-	314/2 மனைஎண் -5 KTR நகர் 2400சதுரஅடி RCC ஒட்டு	4,32,079
மொத்தம்					5,92,96,087

4.In pursuance of the above said finding, several letters were sent to the Registering Authorities namely the Sub Registrar, Ayyampettai, Joint Registrar No.1, Thanjavur, the Deputy Registrar of the Registration Department, Nandhanam, Chennai. Seeking information over the registration of the documents, and etc. facts, similar requests were also made to various authorities not to entertain any transactions in respect of the properties mentioned above. In pursuance of the above said request, the concerned authorities made endorsement in the relevant records stating that no transaction will be permitted.



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5.Challenging all, these writ petitions are filed for the relief as stated above.

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6.Heard both sides.

7.In all the matters, common question of law arises, Heard together and a common order is passed.

8.It is admitted by the prosecution that so far, no order has been passed by the competent authority attaching the properties as mentioned above. But only recommendation has been made seeking orders. The above said file is under process and consideration by the concerned competent authorities.

9.The learned Additional Public Prosecutor would submit that pending the above said process, request has been made by the Investigating Officer to make endorsement in the relevant records and other requests were made not to entertain any transactions. According to him, the process of attachment will take a longer time. If the transactions are allowed to be taken in respect of the properties mentioned above, then it will become infructuous. So, as a precaution, such requests were made.



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10. Per contra, the learned counsel appearing for the petitioner, in all the cases, would submit that this act on the part of the Investigating Officer is against the statutory provision. The Investigating Officer cannot *suo motu* make such a request without referring to any order passed by the competent authority. Without following due process, request has been made, which is absolutely illegal in nature.

11. With regard to the attachment of the properties, the following provisions are made under TNPID Act.

12. Section 3 of the Act reads as follows:-

"3. Attachment of properties on default of return of deposits.- Notwithstanding anything contained in any other law for the time being in force-

(i) where upon complaints received from a number of depositors, that any Financial Establishment defaults the return of deposits after maturity, or fails to pay interest on deposit or fails to provide the service for which deposit has been made, or



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(ii) where the Government have reason to believe that any Financial Establishment is acting in a calculated manner with an intention to defraud the depositors,

and if the Government are satisfied that such Financial Establishment is not likely to return the deposits, or to make payment of interest or to provide the service, the Government may in order to protect the interest of the depositors of such Financial Establishments, pass an ad interim order attaching the money or other property alleged to have been procured either in the name of the Financial Establishment or in the name of any other person from and out of the deposits collected by the Financial Establishment, or if it transpires that such money or other property is not available for attachment or not sufficient for repayment of the deposits, such other property of the said Financial Establishment or the promoter, partner, director, manager or member of the said Financial Establishment or a person who has borrowed money from the Financial Establishment to the extent of is default or, such other properties of that person in whose name properties



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were purchased from and out of the deposits collected by the Financial Establishment, as the Government may think fit, and transfer the control over the said money or property to the Competent authority.

13. Section 4 of the Act reads as under:-

"4. Competent authority, - (1) The Government may, by notification, appoint one or more authorities for such area or areas or such case or cases as may be specified in the notification hereinafter called 'the Competent authority' to exercise control over the properties attached by the Government under section 3.

(2) The Competent authority shall have such other powers as may be necessary for carrying out the purpose of this Act.

(3) Upon receipt of the orders of the Government under section 3, the Competent authority shall apply within thirty days to the Special Court constituted under this Act for making the ad-interim order of attachment absolute and for a direction to sell the property so attached by public auction, and realise the sale proceeds.



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(4) An application under sub-section (3) shall be accompanied by one or more affidavits, stating the grounds on which the belief that the Financial Establishment has committed any default or is likely to defraud, is founded, the amount of money or value of other property believed to have been procured by means of the deposit, and the details, if any, of persons in whose name such property is believed to have been invested or purchased out of the deposits or any other property attached under section 3.

(5) The Competent authority shall make an application to any court having jurisdiction to try similar cases or deal with the subject-matter pertaining to money or property belonging to a Financial Establishment or a person specified in section 3 situated within the territorial jurisdiction of that court for appropriate orders.

(6) For the purpose of crediting and dealing with the money realised by the Competent authority, he shall open an account in any Scheduled commercial bank."



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14. Section 5 of the Act reads as under:-

***"5. Default in repayment of deposits
and interest honouring the commitment.-***

Notwithstanding anything contained in Chapter II, where any Financial Establishment defaults the return of the deposit or defaults the payment of interest on the deposit, or fails to return in any kind, or fails to render service for which the deposit has been made, every person responsible for the management of the affairs of the Financial Establishment shall be punished with imprisonment for a term which may extend to ten years and with fine which may extend to one lakh of rupees and such Financial Establishment is also liable for fine which may extend to one lakh of rupees.

5-A. Compounding of offence.--(1) *An offence punishable under section 5 may, before the institution of the prosecution, be compounded by the competent authority or after the*



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institution of the prosecution, be compounded by the competent authority with the permission of the Special Court, on payment of the entire amount due to the depositors with or without interest.

(2)Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken or continued against the offender, in respect of the offence so compounded and the offender, if in custody shall be discharged forthwith."

15.Section 8 of the Act reads as under:-

"8.Attachment of property of mala fide transferees.--

(1)Where the assets available for attachment of a Financial Establishment or other person referred to in section 3 are found to be less than the amount or value which such Financial



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Establishment is required to repay to the depositors and where the Special Court is satisfied by affidavit or otherwise that there is reasonable cause for believing that the said Financial Establishment has transferred (whether after the commencement of this Act or not) any of the property otherwise than in good faith and for consideration, the Special Court may, by notice, require any transferee of such property (whether or not he received the property directly from the said Financial Establishment) to appear on a date to be specified in the notice and show cause why so much of the transferee's property as is equivalent to the proper value of the property transferred should not be attached.

(2) Where the said transferee does not appear and show cause on the specified date, or where after investigation in the manner provided in



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sub-section (5) of section 7, the Special Court is satisfied that the transfer of the property to the said transferee was not in good faith and for consideration, the Special Court shall order the attachment of so much of the said transferee's property as in the opinion of the Special Court equivalent to the proper value of the property transferred.

16. Section 10 of the Act reads as under:-

"10. Administration of property attached.-The Special Court may, on the application of any person interested in any property attached under this Act, and after giving the Competent authority an opportunity of being heard, make such orders as the Special Court considers just and reasonable for-

(a) providing from such of the property attached as the applicant claims an interest in such sums as may



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be reasonably necessary for the maintenance of the applicant and of his family, and for expenses connected with the defence of the applicant where criminal proceedings have been instituted against him in the Special Court under section 5:

(b)safeguarding so far as may be practicable the interest of any business affected by the attachment and in particular in the interest of any partners in such business."

17.Section 3 of TNPID Act deals about the attachment and interim attachment of the properties involved in the crime. Only the Government is the Competent authority to pass orders in this regard. For the purpose controlling or managing the property attached, the Authority competent can be appointed by the Government by issuing notification.

18.Here the question, which arises for consideration is whether pending process of attachment order to be passed by the Government, on the basis of the



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recommendation made by the Investigating Officer, can he make a request to the Concerned authorities not to entertain any registration of the document concerning the property is the only point, which got to be answered.

19. For that purpose, we look into the provisions of the Act. Under the provision of the Special Act, no separate provision is made for such request. It deals about the Court Proceedings, attachment, trial, etc. But so far, for the purpose of making the investigation as per the statement of law made by this Court, while hearing **Anubuv Plantation's case**, a separate Wing was constituted by the Government of Tamil Nadu to deal with the economic offences cases. So, the Economic Offences Wing came into existence. They are having power to deal and investigate the crime committed by the Non- Financial Banking Institutions and Companies. In an Non-banking Financial Establishment, they are competent to seize the properties under various provisions of the City Police Act, Criminal Procedure Code, etc.

20. Now let us go to the provisions of the Criminal Procedure Code, by invoking section 102 Cr.P.C for such purpose. So they can be exercised the power subject to the limitation of the power to be followed. It deals



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about the power of the police officer to seize any property.

21. Section of 102 Cr.P.C read as follows:-

"102. Power of police officer to seize certain property. (1) Any police officer, may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

(3) Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same.



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Provided that where the property seized under sub-section (1) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees, it may forthwith be sold by auction under the orders of the Superintendent of Police and the provisions of Sections 457 and 458 shall, as nearly as may be practicable, apply to the net proceeds of such sales.

22.The word '**property**' came up for interpretation in number of judgments. One among that is the latest judgment of the Hon'ble Supreme Court in the case of *NEVADA PROPERTIES PRIVATE LIMITED THROUGH ITS DIRECTORS Vs. STATE OF MAHARASHTRA AND ANOTHER* (Criminal Appeal No. 1481 of 2019, dated 24/09/2019). A question arose before the Larger Bench is whether the word '**property**' mentioned in section 102 Cr.P.C covers the immovable property also. The matter was referred to the Larger Bench, because of the conflict of judgments. After elaborate discussion, the Hon'ble Supreme Court is of the view that the property does not include the immovable property where if the right and power to seize the immovable property is given then situation will become chaotic. So the



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properties covered in this matter are immovable properties, naturally the police has no right to seize the property even by giving formal request to the Jurisdictional Officer not to make any registration of the document in respect of the properties.

23.The learned Additional Public Prosecutor would submit that attachment procedure will take a long time and before the attachment process is completed, there is every possibility of the accused to dispose those properties, as a preventive measure only, such a step was taken.

24.Now we are not dealing with the power of the Police Officer to seize the movable property or bank account, as the case may be, for which, different approach has to be made. But so far the powers of the Police Officer in respect of immovable properties are concerned, that cannot be seized virtually by making a formal request, which is not permissible under law.

25.The power to deal with the property suspected to be involved in the crime is also taken care. Section 8 of the TNPID Act reads as under:-



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"8.Attachment of property of mala fide transferee. - (1)Where the assets available for attachment of a Financial Establishment or other person referred to in section 3 are found to be less than the amount or value which such Financial Establishment is required to repay to the depositors and where the Special Court is satisfied by affidavit or otherwise that there is reasonable cause for believing that the said Financial Establishment has transferred (whether after the commencement of this Act or not) any of the property otherwise than in good faith and for consideration, the Special Court may, by notice, require any transferee of such property (whether or not he received the property directly from the said Financial Establishment) to appear on a date to be specified in the notice and show cause why so much of the transferee's property as is equivalent to the proper value of the property transferred should not be attached.

(2)Where the said transferee does not appear and show cause on the specified date, or where after investigation in the manner provided in sub-section (5) of section 7, the Special Court is satisfied that the transfer of the property to the said transferee was not in good faith and for consideration,



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the Special Court shall order the attachment of so much of the said transferee's property as in the opinion of the Special Court equivalent to the proper value of the property transferred."

26. So only in such a way, the Investigating Officer can protect the interest of the depositors and not by way of sending formal request. On that sole ground, all the writ petition are liable to be allowed.

27. In the result, all the writ petitions stands **allowed** and the impugned orders passed by the first respondent hereby are quashed. No costs. Consequently, connected Miscellaneous Petitions are closed.

10/11/2023

Index: Yes/No
Internet: Yes/No

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To,
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- 1.The Deputy Superintendent of Police,
Economic Offences Wing,
Trichy Region,
Trichy District.
- 2.The Deputy Inspector General of Registration,
Thanjavur Zone,
Thanjavur.
- 3.The District Registrar (Administration),
Thanjavur District, Thanjavur.
- 4.The Sub Registrar,
Aiyyampettai Railway Station Road,
Aiyyampettai, Thanjavur District.
- 5.Joint-I Sub-Registrar,
Joint Sub-Registrar Office,
Poonga, Nearby Old Bus Stand,
Thajavur District.
- 6.The Sub-Registrar,
Vallam,
Thanjavur District.
- 7.The Sub-Registrar,
Maharnonbu Chavadi,
Thanjavur District.
- 8.The Deputy Superintendent of Police,
District Crime Branch,
Thanjavur District.
- 9.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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10/11/2023