



W.P(MD)No.26724 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.26724 of 2023

and

W.M.P(MD)No.22984 of 2023

P.Shanthi

... Petitioner

Vs.

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
Home (Police XIX) Department,
Fort St.George,
Chennai – 09.
- 2.The District Collector,
Office of the Collectorate,
Karur District.
- 3.The Competent Authority and
District Revenue Officer,
Karur, Karur District.
- 4.The Sub Registrar,
Melakarur Registration Office,
Karur.



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5. The Sub Registrar,
Joint – I Registration Office,
Karur.

6. The Inspector of Police,
Economics Offence Wing – II,
Karur, Karur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in G.O(Ms)No.843 Home (Police XIX) Department dated 12.12.2011 and quash the same as illegal and consequently direct the 3rd and 4th respondents to delete and make necessary entries in the registration records including encumbrance certificate by removing the entry of attachment made on the basis of G.O(Ms)No.843 Home (Police XIX) Department dated 12.12.2011 in

- i. Land and House (2 Floor) at Karur District, Karur Municipal Town, Ward No.1, Block No.13 Ansari Street
- ii. Land and House (2 Floor) at Karur District, Karur Municipal Town, Ward No.2, Pasupathipalayam North in T.S.No.2588 purchased vide document No.2307 of 1990
- iii. Land at Karur District, Karur Municipal Town, Pasupathipalayam North Ward 2 Block 34, Pillayar Koil Street
- iv. Land and House at Karur District, Karur Municipal Town, Pasupathipalayam North Ward 2 Block 34, Plot No. 12, Pillayar Koil Street



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v. Land and House at Karur District, Karur Municipal Town, Pasupathipalayam North Ward 2 Block 34, Plot No. 23, 24 Pillayar Koil Street

vi. Land and House at Karur District, Karur Municipal Town, Pasupathipalayam North Ward 2 Block 34, Plot No. 4, 5, Pillayar Koil Street and the same within such time as may be stipulated by this Court.

For Petitioner : Mr.T.Dhamodharan

For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.1 to R.5

Mr.A.Albert James
Government Advocate for R.6

ORDER

Heard both sides.

2. The petitioner was the partner of a financial establishment. It committed default. Criminal prosecution was launched. Parallely the properties of the establishment were also attached by issuing G.O(Ms)No.843 Home (Police XIX) Department dated 12.12.2011. The petitioner's case is that the case had ended in acquittal and that all the depositors have been settled.



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3. My attention is drawn to the order dated 21.04.2023 made in

W.P(MD)No.9286 of 2023. The said order reads as follows:

“The writ petition has been filed in the nature of certiorarified mandamus seeking interference with G.O.Ms.No.843 / Home (Police-XIX) Department dated 12.12.2011 which had been issued by the first respondent and direct the third and fourth respondents, Sub Registrar, Melakarur Registration office at Karur and Sub Registrar, Joint-I, Registration Office at Karur, to delete the entries in the registration record, including the encumbrance certificate by removing the entry of attachment with respect to the land in building in T.S.No. 2045, measuring 976 ½ Sq.ft at T.S.No.2101 to the extent of 2/4th share and the property of the second petitioner in T.S.No.2588 measuring 486 Sq.ft and in T.S.No.2083 and 2084/2, measuring 1200 Sq.ft and Plot No.23, 24 in T.S.No. 2083 and 2084 measuring 816 Sq.ft and T.S.No.2083 and 2084 /2 measuring 3600 Sq.ft of Karur Town.

2. The first petitioner S.Venugopal was the second accused in C.C.No. 88/2008 which calendar case was before the Special Judge for TNPID Cases at Madurai. After trial, judgment was delivered on 27.09.2016, acquitting the first petitioner of all



charges. In view of the that particular acquittal, it may not be even required on the part of this Court to state the nature of the charges against the first petitioner herein. The second petitioner is the wife. Consequent to the registration of FIR, the final report had been filed and trial progressed. The aforementioned properties had been attached by way of the order of the first respondent in G.O.Ms.No.843/Home (Police-XIX) Department dated 12.12.2011. Since the petitioner had now been acquitted, it is only appropriate that the said G.O., is withdrawn. Written instructions had been forwarded to the Special Government Pleader by the sixth respondent, wherein it has also been affirmed that the first petitioner had been acquitted of all charges.

3. In view of this specific instructions recorded, it is only appropriate to hold that G.O.Ms.No.843/Home (Police-XIX) Department, dated 12.12.2011 has as on date become otiose and has no effect in law and has to be quashed by this Court. It is accordingly quashed. The resultant feature of this particular order would be a direction to be issued to the fourth and fifth respondents to make necessary entries in the encumbrance certificate with respect to aforementioned property to remove the order of attachment made consequent to the passing of G.O.Ms.No.843 / Home (Police-XIX)



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Department dated 12.12.2011. The petitioners may give a fresh representation to the fourth and fifth respondents enclosing a copy of this order and the fourth and fifth respondents are directed to make necessary entries deleting the attachment within a period of five working days from the date on which the petitioner give a fresh representation to the respondents.

4. This writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed. ”

The grievance of the petitioner is that till date in the encumbrance register the attachment entries are still remaining.

4. The learned Government Advocate on instructions from the sixth respondent also asserts that all the depositors have been settled.

5. In this view of the matter, the registering authorities, namely, the respondents 4 and 5 are directed to make an entry in the relevant encumbrance register that the attachment made in respect of the petition



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mentioned properties has since been lifted and withdrawn. It is also open to the petitioner to file an application for registering the order dated 21.04.2023 made in W.P(MD)No.9286 of 2023. As and when the petitioner moves the respondents 4 and 5, the necessary formalities shall be carried out.

6. This writ petition is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

07.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

- 1.The Principal Secretary to Government,
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Home (Police XIX) Department,
Fort St.George, Chennai – 09.
- 2.The District Collector,
Office of the Collectorate,
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G.R.SWAMINATHAN, J.

MGA

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- 5.The Sub Registrar,
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