



WEB COPY



W.P.No.15189 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

W.P.No.15189 of 2024
and
W.M.P.No.16515 of 2024

1. Dhanalakshmi

2. S.Ravichandar

... Petitioners

Vs.

1. The Enforcement Director,
Directorate Of Enforcement,
Pravatan Bhawan,
Dr.Abdul Kalam Road,
New Delhi- 110 011.

2. The Enforcement Director,
Chennai Zone - I,
BSNL Building,
Kushkumar Road,
Chennai-034.

3. J.Vijay Surana,
Partner M/S.Krishna Estates,

4. C.Radhakrishnan

5. Dayanidhi Chinnapaiyan



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6. M/S.Krishna Estates
Rep By Partner Mr.J.Vijay Surana

7. Kumara Gurunathan

8. Dhanalakshmi

9. Surana Kannan Porcheldi

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the second respondent to take action based on the representation dated 08.07.2023 in accordance with law.

For Petitioners	:	Mr.L.Dhamodharan
For Respondents	:	Mr.N.Ramesh, Special Public Prosecutor for ED (for R1 & R2);
	:	Mr.K.S.Arumugam (for R4)

ORDER

(Order of the Court was delivered by S.M.Subramaniam J.)

The writ of mandamus has been instituted to direct the second respondent to take action based on the representation dated 08.07.2023 in accordance with law.



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2. The learned counsel for the petitioner would submit that the allegations set out by the petitioner in his complaint before the Inspector of Police Guduvancheri Police Station is about certain sale transactions of immovable property. The petitioner states that the sale consideration in entirety had not been settled in favour of the petitioner and certain fraudulent activities were committed by the 4th respondent in connivance with other persons. That apart, the power of attorney has been forged and in this context, the petitioner would submit that the said cheating complaint under Section 420 IPC, registered by Guduvancheri Police Station, will fall under the definition of Section 2(1)(u) of PMLA i.e., proceeds of crime.

3. The learned counsel for the petitioner, relying on Section 8(1) would contend that the said complaint filed by the petitioner is to be taken into consideration for invoking PMLA by the Enforcement Directorate. Since no action has been taken, the petitioner is constrained to move the present Writ Petition.

4. Mr.N.Ramesh, learned Special Public Prosecutor would oppose by stating that the complaint referred under Section 8(1) is the complaint to be



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filed by the Enforcement Directorate and not by private persons. That apart, the essential requirements for invoking PMLA has not been established in the present case. Certain sale transactions or the allegation of cheating would not fall under the PMLA. An economic offence affecting interest of the State alone will be taken up by the Enforcement Directorate by invoking PMLA. Pertinently, under PMLA, to prosecute the person for offence of money laundering is authorised only if it has reason to believe which is required to be recorded in writing that the person is in possession of “proceeds of crime”. Only if that belief is further supported by tangible and credible evidence, indicative of involvement of a person concerned in any process or activity connected with the proceeds of action under the Act, can be taken forward for attachment and confiscation of proceeds of crime and until vesting thereof in the Central Government, such process initiated would be stand-alone process.

5. In the present case, admittedly, it is the private transaction between the petitioner and the 4th respondent regarding Salem property. If at all an allegation of cheating is raised, it is to be resolved by approaching the competent Court of law. The petitioner has already given a complaint before



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the Inspector of Police, Guduvancheri Police Station and FIR No.435 of 2017 has been registered.

6. The learned counsel for the 4th respondent would bring it to the notice of this Court that a closure report is filed by the Inspector of Police and thereafter, the petitioner has registered a private complaint. The said actions under the private complaint are pending. That being so, the petitioner is at liberty to pursue the remedy available under the Government law and we do not find any reason to consider the relief since the private transactions between the private parties relating to property would not fall under the provisions of PMLA and the competent authority under the PMLA is not obligated to initiate appropriate action.

7. With the above observations, the writ petition stands dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.J.,)

(V.S.G.J.,)

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Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



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To
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S.M.SUBRAMANIAM, J.

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