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W.P.No.28063 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 19.01.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**W.P.No.28063 of 2023**

**and**

**W.M.P.Nos.27584 & 27585 of 2023**

E.Thamaraiselvan

S/o.Easwaramurthy

... Petitioner

Vs.

1. The Sub-Registrar,  
O/o.The Sub-Registrar,  
Pettai, Tirunelveli District.

2. The Inspector of Police (CBCID),  
O/o.The Inspector of Police (CBCID),  
Puducherry.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records pertaining to the letter No.1497/CBCID/OW/2022 dated 17.12.2022 issued by the second respondent requesting the first respondent to freeze the land comprised in Survey Nos.343/1, 344/1 and 345/1 of Kondanagaram Village, Pettai, Tirunelveli Taluk and Tirunelveli District and to stop further transaction with regard to the property relating to the sale deed dated 31.12.2021 registered as Document No.5953 of 2021 in the office of the 1<sup>st</sup> respondent and quash the same as illegal, arbitrary and ultra vires.

For Petitioner

For Respondent

: Mr.S.Giritharan

: Mr.A.Damodaran

Additional Public Prosecutor [R1]

Mr.K.S.Mohan Dass

Public Prosecutor [Pondicherry] [R2]

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## **ORDER**

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This writ petition has been filed challenging the impugned letter dated 17.12.2022 issued by the second respondent requesting the first respondent to freeze the immovable property and to stop further transactions with regard to the property.

2. When the matter came up for hearing on 27.09.2023, this Court passed the following order:

"Mr.A.Damodaran, learned Additional Public Prosecutor takes notice on behalf of the 1<sup>st</sup> respondent.

2.Mr.P.Vasanthakumar, learned Additional Public Prosecutor (Puducherry) takes notice on behalf of the 2<sup>nd</sup> respondent.

3.The subject matter of challenge in the present petition pertains to the letter issued by the 2<sup>nd</sup> respondent to the 1<sup>st</sup> respondent dated 17.12.2022 to freeze the immovable property belonging to the petitioner.

4.In the considered view of this Court, the power under Section 102 of Cr.P.C., to freeze the property does not extend to freezing an immovable property. The law on this issue is now too well settled by the Apex Court in *Nevada Properties Private Limited vs. State of Maharashtra and Another* reported in **2020 3 SCC Crl. 782**. Hence, the impugned letter dated 17.12.2022 is on the face of it illegal. A *prima facie* case has been made out, there shall be a stay of all further proceedings in pursuance of the order vide No.1497/CBCID/OW/2022 dated 17.12.2022, pending disposal of the criminal original petition.

Post this case on 18.10.2023."

3. Heard Mr.S.Giritharan, learned counsel for petitioner,

<https://www.mhc.tn.gov.in/judis>

Mr.A.Damodaran, learned Additional Public Prosecutor appearing for first



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respondent and Mr.K.S.Mohan Dass, learned Public Prosecutor [Pondicherry]

appearing for second respondent.

4. The short issue that arises for consideration in the present case is as to whether the police will have the power to issue such a direction to the Sub-Registrar office and thereby prevent the petitioner from dealing with the immovable property.

5. As recorded in the order passed on 27.09.2023, the power of the police to freeze the property does not extend to an immovable property. That issue has been settled by the Apex Court. That apart, in the present case, the impugned letter makes a mention of Section 91 Cr.P.C., which will have no relevance. The correct provision under which the police will be able to exercise such a power of freezing a property is u/s.102 Cr.P.C. Even assuming that the letter dated 17.12.2022 was issued by exercising the power and jurisdiction under Section 102 Cr.P.C., the same is unsustainable since it involves an immovable property. Hence, the second respondent could not have issued such a direction to the first respondent.

6. In the light of the above discussion, the impugned letter dated



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**N.ANAND VENKATESH, J.**

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quashed. There shall be a direction to the second respondent to proceed further with the investigation in Crime No.37 of 2022 and to complete the same and file a final report within a period of two (2) months from the date of receipt of a copy of this order. The rights of the parties will be ultimately decided by the trial Court.

In the result, this Writ Petition is allowed with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

**19.01.2024**

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

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To

1. The Sub-Registrar,  
O/o.The Sub-Registrar,  
Pettai, Tirunelveli District.
2. The Inspector of Police (CBCID),  
O/o. The Inspector of Police (CBCID),  
Puducherry.
3. The Public Prosecutor,  
High Court, Madras.

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