



W.P (MD).No.6249 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2024

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P (MD).No.6249 of 2023

and

W.M.P(MD)No.5946 of 2023

1.D.Vethakan Mohan Raj
2.D.John Sekar Raj

...Petitioners

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Home Department, St. George Fort,
Chennai-600 009.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
Raja Annamalaipuram,
Chennai-600 028.
- 3.The Deputy Inspector General of Registration,
St. Marks Street, Near Shankar Colony,
Behind John Higher Secondary School,
Tirunelveli-627 002.
- 4.The District Registrar,
Near S.L.B.Girls Government Higher Secondary School,
South Road, Nagercoil, Pin-629 001.
- 5.The Sub Registrar,
Thuckalay Sub Registration office,
Thuckalay, Kanyakumari District.



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6.Azhagappan

...Respondents

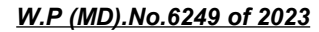
Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned communication passed by the fourth respondent in his proceedings in Oo.Mu.No.4117/A1/20212 dated 21.06.2022 and the quash the same as illegal and consequently direct the respondents 2 to 5 herein to make necessary entires in the encumbrance register by recording G.O(Ms) No.8, Home Department, dated 05.01.2010 which raises the wrong attachment made on the property comprised in R.S.No.22/3 for an extent of 10 ares situated at Thuckalay Village, Kalkulam Taluk, Kanyakumari District, the petitioner schedule property and direct the fifth respondent herein to register the partition deed presented by the petitioners with regard to the petition schedule property.

For Petitioner	: Mr.C.Kishore
For R1 to R5	: Mr.M.Sarangan Additional Government Pleader
For R6	: No appearance

ORDER

This writ petition has been filed challenging the order passed by the fourth respondent, dated 21.06.2022 thereby, rejected the request made by the petitioner for registering the partition deed and directed the petitioner to correct G.O.Ms.No.543, Home Department, dated 27.06.2005 before the Civil Court.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



4. On a perusal of the records, it is seen that the fourth respondent directed the petitioners to correct the survey numbers mentioned in G.O.Ms.No.543, Home Department, dated 27.06.2005. The properties owned by the SUS Bankers, Thuckalay were attached by the first respondent in G.O.Ms.No.543, Home Department, dated 27.06.2005 on the file of the Economic Offence Wing. The survey number mentioned in the said Government Order has been wrongly included in the petitioner's survey No.22/3 instead of Survey No.225/3. The accused namely SUS bankers, Thuckalay, Kanyakumari District settled the amount and submitted an



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application to raise an attachment before the first respondent. After consideration, the attachment order passed in G.O.Ms.No.543, Home Department, dated 27.06.2005 was raised by the another order in G.O.Ms.No.8, Home (Police XIX) Department, dated 05.01.2010. The relevant portion of the Government Order is extracted hereunder:-

"In the Government Order first read above, Government have issued orders for the attachment of properties belonging to the Proprietor of Tvl.SPS Bankers, Thuckalay, Kanniyakumari District under Criminal Law Amendment Ordinance 1944.

2.In the reference second read above, the High Court of Madras at Madurai Bench has passed orders to the effect that the attachment of properties effected in G.O.Ms.No.543, Home, dated 27.06.2005 be raised.

3.The Inspector General of Police, Economic Offences Wing-II, Chennai in his letter third read above has requested the Government to pass necessary orders based on the above said Court orders.

4. In exercise of the powers conferred by section 3 of the Criminal Law Amendment Ordinance 1944 the Governor of Tamil Nadu hereby rescinds the Government orders issued in G.O.Ms.No.543, Home, dated 27.06.2005."

5. Accordingly, the properties which were attached by way of G.O.Ms.No.543, Home Department, dated 27.06.2005 were raised. On perusal



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of the G.O.Ms.No.543, Home Department, dated 27.06.2005 revealed that the property was attached comprised in Survey No.22/3. The accused SUS bankers' property is Survey No.225/3 along with other properties in the village of Thuckalay, Kanyakumari District. However, there was a typographical error while mentioning the survey number as 22/3 instead of 225/3. However, after some settlement or other arrangements, the accused SUS Bankers filed an application to raise the attachment in respect of the properties which were attached by way of G.O.Ms.No.543, Home Department, dated 27.06.2005 and on receipt of the same, the attachment of the entire properties were raised by way of G.O.Ms.No.8, dated 05.01.2010. However, without considering the same, the respondents 4 & 5 mechanically rejected the partition deed which was presented by the petitioners for registration.

6. The learned Additional Government Pleader appearing for the respondents 1 to 5 would submit that whether subsequent G.O.Ms.No.8, dated 05.01.2010 is produced or not before the fourth respondent is not established by the petitioner. That apart, concerned Economic Offence Wing has to confirm the raising of attachment in respect of the subject property, in which, the petitioners had partitioned among themselves. He further submitted that the accused SUS bankers involved in several similar type of cases, the accused is



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facing trial before the criminal Court. However, the subject property comprised in Survey No.22/3 situated at Thuckalay Village, Kalkulam Taluk, Kanyakumari District has been raised by the G.O.Ms.No.543, Home Department, dated 27.06.2005, whether the accused SUS bankers facing criminal trial and liable to settle the depositors is not the matter herein.

7. In view of the above, the order passed by the fourth respondent cannot be sustained and it is liable to be quashed. Accordingly, the impugned order dated 21.06.2022 is quashed and the writ petition is allowed. The petitioners are directed to represent the partition deed for registration before the fifth respondent along with G.O.Ms.No.543, Home Department, dated 27.06.2005 and G.O.Ms.No.8, Home (Police XIX) Department, dated 05.01.2010 and on receipt of the same, the fifth respondent is directed to register the same and release the document forthwith. No costs. Consequently, connected miscellaneous petitions are closed.

Internet : Yes
Index : Yes/No
Speaking/Non Speaking order
am

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To

WEB COPY

- 1.The Secretary,
Home Department, St. George Fort,
Chennai-600 009.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
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Chennai-600 028.
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G.K.ILANTHIRAIYAN, J.

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