



W.P(MD)No.12828 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12828 of 2024

and

W.M.P.(MD)No.11398 of 2024

S.Thangadurai

... Petitioner

Vs.

1.The District Revenue Officer,
Tirunelveli District,
Tirunelveli.

2.The Inspector of Police,
Economic Offence Wing,
Tirunelveli-627 007.

3.The District Registrar (Administration)
Tirunelveli District,
Tirunelveli-627 002.

4.The Sub Registrar,
Sub Registrar Office Join-I,
Palayamkottai,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 3rd respondent to remove entry made as the document prohibited for registration as per order of the 2nd respondent vide proceedings in C. No.160/Inspr/EOW/TIN/2023 dated



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10.11.2023 in the encumbrance certificate in respect of the petitioners property in Survey No.17/1A1A, Plot No.94 to an extent of 1112.5 sq. ft. situated at Ravi Sankar Nagar, Kelanatham Village, Palayamkottai Taluk, Tirunelveli District by considering the petitioner's representation dated 17.05.2024.

For Petitioner : Mr.V.Muthu Kamatchi

For Respondents : Mr.B.Saravanan
Additional Government Pleader for R1, R3 & R4

: Mr.A.Albert James
Government Advocate (Crl.side) for R2

ORDER

Heard both sides.

2. The petitioner is said to have purchased the petition mentioned property vide sale deed dated 22.08.2023. The petitioner's vendor is one Mrs.Sarguna. Transaction had taken place through the power agent. While so, at the instance of the second respondent, the said property had been attached. The entry in the encumbrance register reads that further registration in respect of the petition mentioned property stands forbidden. Seeking deletion of this adverse entry, this writ petition has been filed.

3. The learned counsel appearing for the petitioner is right in his contention that at the instance of the second respondent, attachment cannot be



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made. A learned Judge of this Court vide order dated W.P.No.17291 of 2022, dated 26.07.2023 had held as follows:-

“7. In the considered view of this Court, the communication dated 05.09.2019 made by the 1st respondent to the 2nd respondent is more by way of temporary arrangement to ensure that third party rights are not created on the properties. By the time steps were taken to get the property attached, the 4th respondent had undertaken to settle the depositors and a committee was also formed and ultimately, nothing turned out of it. Consequently, this Court has issued necessary directions while disposing of WP No.9404 of 2023 today. One of the direction that was issued by this Court today is that the District Collector was asked to pass necessary orders within a period of two weeks by appointing the competent authority who shall immediately take steps to attach the properties. In view of the same, the impugned communication dated 05.09.2019 will be superseded by the steps that are going to be taken by the competent authority under the Act and Rules. It is true that a police officer cannot straight away issue a direction to the registering authority not to register any documents pertaining to the disputed property. However, in the present case, such a communication was sent since the case involved the interest of more than 1000 depositors and the 1st respondent wanted to somehow ensure that their rights are not defeated.

8. The directions given by this Court in WP No.9404 of 2023 will sufficiently take care of the interest of the petitioners. If ultimately, the competent authority does not bring the subject property within the scope of attachment under the Act and Rules, it will always be left open to the petitioners to deal with the property.”

4. I therefore hold that the impugned entry was made without jurisdiction and illegally. The fourth respondent is directed to make entry to the effect that the aforesaid entry made at the instance of the second respondent does not hold good no longer. However, the issue cannot rest there.



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5. The learned counsel for the second respondent informs the Court that the petitioner's vendor Mrs.Sarguna is figuring as accused No.8 in Crime No.1 of 2023 on the file of the second respondent. FIR was registered on 02.02.2023. It is also submitted that under Section 8 of the Tamil Nadu Protection of Interests to depositors (in Financial Establishment) Act, 1997, the property of malafide transferees can be attached. It is stated that the Inspector of Police, EOW, Tirunelveli has filed O.A.No.10 of 2024 on the file of the TNPID Act, cases, Madurai and that next hearing date is 03.07.2024. The learned Sub Judge, Madurai is directed to dispose of the said O.A on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. Till an appropriate order is passed by the learned Sub Judge, the fourth respondent is directed not to entertain any registration and document pertaining to the petition mentioned property.

6. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

02.07.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

1. The District Revenue Officer,
Tirunelveli District,
Tirunelveli.
2. The Inspector of Police,
Economic Offence Wing,
Tirunelveli-627 007.
3. The District Registrar (Administration)
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Tirunelveli-627 002.
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G.R.SWAMINATHAN, J.

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