



W.P(MD)No.13020 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13020 of 2024

and

W.M.P(MD)No.11560 of 2024

Santhosh

... Petitioner

Vs.

1.The District Registrar,
O/o.The District Registrar,
Karur District.

2.The Sub Registrar,
Pukazhoor Taluk,
Karur District.

3.The Inspector of Police,
Economic Offences Wing,
Karur.

***(R.3 is suo motu impleaded vide
order of this Court dated 20.06.2024)***

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned refusal check slip issued by the second respondent in his proceedings in RFL/Velauthapalayam/15/2024 dated 06.06.2024 and quash the same as illegal and consequently direct the second respondent to register the sale deed dated 06.06.2024 executed by



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the petitioner qua the land comprised in S.No.550/1, Plot Nos.47, 48 and 51 to an extent of 12.39 cents and other house plots mentioned in the settlement deed in Doc.No.2296/2022 dated 22.12.2022 registered on the file of Velayudhampalayam Sub-Registrar Office, Karur District within the period that may be stipulated by this Court.

For Petitioner : Mr.K.Althaf Sheriff
for M/s.Ajmal Associates

For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader
for R.1 & R.2

Mr.A.Albert James
Government Advocate (Criminal Side)
for R.3

ORDER

Heard both sides.

2.The petitioner is the son of one Murugan. The petitioner's father executed settlement deed dated 22.12.2022 in favour of the petitioner settling the petition mentioned property. It was also duly registered. The petitioner now wants to deal with the property. He is unable to do so on account of the communication sent by the third respondent to the registering authority. When the petitioner presented a sale deed executed in favour of one Palanisamy, registration was refused and refusal check



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slip was also issued to that effect. Challenging the same, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for. He pointed out that Crime No.1 of 2023 registered on the file of EOW, Karur was registered on 30.03.2023 and whereas the settlement deed was executed in his favour by his father on 22.12.2022 itself. He also submitted that the third respondent has no jurisdiction to issue any communication to restrain the registering authority from registering any document. He pointed out that the issue raised in this writ petition is no longer *res integra*. A learned Judge of this Court vide order dated 09.07.2015 in W.P(MD)No.11221 of 2015. He also pointed out that I had followed the said order in more than one case. Copy of the order dated 04.12.2023 made in W.P(MD)No. 24681 of 2023 (P.Jeyachandran Vs The District Registrar, Karur District, Karur & Others) was produced before me.

4.The learned counsel appearing for the petitioner submitted that the conduct of the respondents is clearly illegal and that this Court ought to interfere in the matter.



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5.The learned Special Government Pleader appearing for the respondents 1 and 2 and the learned Government Advocate appearing for the third respondent called upon this Court to bear in mind the equities obtaining in this case and pass an appropriate order in public interest.

6.I carefully considered the rival contentions and went through the materials on record. Copy of the FIR in Crime No.1 of 2023 registered on the file of the third respondent has been enclosed in the typed set of papers. It is seen there from that it was registered on 30.03.2023. The petitioner's father Murugan is figuring as ninth accused. No doubt the settlement deed executed in favour of the petitioner is prior in point of time. There is a gap of three months between the execution of the settlement deed in favour of the petitioner and registration of FIR.

7.The learned Government Advocate appearing for the third respondent states that the petitioner's father was a partner in the defaulting financial establishment. The financial establishment had collected a deposits from a number of persons and the default amount appears to be around Rs.10 Crores. The deposits had been collected right from the year 2014 onwards. The complaint reads that on 30.06.2022, the defacto complainant sought refund of the deposit amount. The



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defacto complainant had approached the financial establishment again on 30.08.2022 and again on 30.10.2022. It can be seen therefrom that the problem arose for the financial establishment right from June 2022 onwards. Thiru.Murugan obviously knew that FIR is going to be registered under the provisions of the The Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act , 1997 (hereinafter referred to as the TANPID Act). That is why he had cleverly settled the property in favour of his son. Section 8(1) of the TANPID Act, 1997 reads as follows:

“8. Attachment of property of malafide transferees.

(1) Where the assets available for attachment of a Financial Establishment or other person referred to in Section 3 are found to be less than the amount or value which such Financial Establishment is required to repay to the depositors and where the Special Court is satisfied by affidavit or otherwise that there is reasonable cause for believing that the said Financial Establishment has transferred (whether after the commencement of this Act or not) any of the property otherwise than in good faith and for consideration the Special Court may, by notice, require any transferee of such property (whether or not he received the property directly from the said Financial Establishment) to appear on a date to be specified in the notice and show cause why so much of the transferee's



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property as is equivalent to the proper value of the property transferred should not be attached.”

In this case, the transaction is between the father and the son. It is not as if a *bona fide* third party purchaser had taken the property in good faith and for consideration. Therefore, this is a fit case in which the jurisdiction of the Special Court under Section 8 of the Act deserves to be invoked.

8.The learned counsel appearing for the petitioner would state that when Murugan applied for Anticipatory Bail, it was granted on condition that he furnishes security to the tune of Rs.1 Crore. It is further claimed that like him 17 other partners similarly offer sureties. That may be so. But when the entire facts are not before the Court I should not pass an order that will eventually compromise the interest of the depositors.

9.I direct the second respondent herein to apply before the Special Court concerned under Section 8 of the Act. If any such OA will be filed, it shall be numbered immediately and taken on file. The Special Court shall dispose it of on merits and in accordance with law within a period of four months thereafter. If in the meanwhile, the impugned transaction is allowed to go on, that will definitely frustrate public



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interest. The object behind the promulgation of TANPID Act, 1997 is to protect the interest of the depositors. It cannot be allowed to be frustrated and defeated by such clever stratagems. I decline to interfere with the impugned order.

10.This writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

04.07.2024

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

To

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Karur District.

2.The Sub Registrar,
Pukazhoor Taluk,
Karur District.

3.The Inspector of Police,
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G.R.SWAMINATHAN,J.

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