



W.P(MD)No.17332 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17332 of 2024

and

W.M.P.(MD)No.14905 of 2024

T.Satheesh

... Petitioner

Vs.

1.The Competent Authority /
District Revenue Officer,
Nagercoil,
Kanyakumari District.

2.The District Registrar,
O/o. District Registrar,
Agasteeswaram Taluk,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned letter No.1738/Aa3/2024 dated 06.03.2024 on the file of 2nd respondent and quash the same as illegal and consequently directing the respondents to take necessary steps to make the property of the petitioner as free from Encumbrance by deleting the entry of the sale agreement in Document No.1993/2012 dated 04.06.2012 in the light of the order passed by the Learned Special Judge, under TANPID Act, Madurai in OA No.07/2021 dated 05.12.2023.



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For Petitioner : Mr.G.M.Arumugam

For Respondents : Mr.B.Saravanan,
Addl. Government Pleader.

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ORDER

Heard both sides.

2.The petitioner is the owner of the petition mentioned property. He entered into a sale agreement with one Shivaprasath. Shivaprasath is facing prosecution before the Special Court under TNPID Act, Madurai. The first respondent herein filed O.A.No.7 of 2021 and the the Special Judge passed order dated 05.12.2023 in the following terms:-

“14). Admittedly, the said deceased Shiv Prasad had entered into a sale agreement with the 5th respondent. Due to the existence of the criminal case, execution of the sale was not completed. Thereby the sale agreement amount is liable for absolute attachment. It is quite obvious that the 5th respondent is free from all clutches and encumbrances, which was created over the said property by way of sale agreement. Under these circumstances, it is just and reasonable to make the 5th respondent free from all risks and make him comfort to enjoy the property peacefully. Hence it is necessary to cancel the endorsement which is available in the concerned Sub Register Office as per the Doc.No.1993/2012, dated 4.6.2012.

In the result, the petition is allowed and the ad-interim attachment as per G.O.Ms.No.851/2016, Home (Police XIX),



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Department, dated 28.11.2016 is made absolute and in consequences, the competent authority is directed to make necessary steps to transfer the funds along with the accrued interest from the file of the 4th respondent in the 5th respondent's account along with the statement of accounts and also make arrangements for cancellation of the sale agreement vide Doc.Nc.1993/2012, dated 04.06.2012 on the file of District Register Office, Agastheeswaram Taluk. Kanyakumari District.”

3.Since the sale agreement was shown in the encumbrance, the petitioner wanted registration of the endorsement of cancellation. When the petitioner moved the second respondent, the second respondent treated the matter as if the petitioner has given an application under Section 77A of the Registration Act. The petitioner was informed accordingly. Challenging the stand of the second respondent, this writ petition has been filed.

4.It is beyond dispute that the petitioner sought action only in terms of a judicial order. The second respondent has misconstrued the nature of request.

5.In this view of the matter, the impugned communication dated 06.03.2024 issued by the second respondent is set aside. The consideration received by the petitioner under the sale agreement bearing Doc. No.1993/2012 dated 04.06.2012 has already gone to the hands of the first respondent. The



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agreement is also more than 12 years old and no longer enforceable. It is as good as cancelled. The second respondent is directed to register the order dated 05.12.2023 made in O.A.No.7 of 2021 passed by the Special Court under TNPID Act, 1997, Madurai as footnote to the petition mentioned entry.

6.The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

29.07.2024

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

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2.The District Registrar,
O/o. District Registrar,
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G.R.SWAMINATHAN, J.

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