



W.P.(MD) Nos.18282 of 2023 & 11395 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 04.07.2024

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD) Nos.18282 of 2023 & 11395 of 2024
and W.M.P(MD) NoS.17562 of 2023 & 10130 of 2024

WP(MD) No.18282 of 2023

T.Senthilkumar

... Petitioner in WP(MD) No.18282 of 2023

Vs

1. The Superintendent of Police,
Thanjavur District
Thanajvur.

2. The Inspector of Police,
District Crime Branch,
Thanjavur District,
Thanjavur.

3. The Inspector of Police,
Pattukottai Police Station,
Pattukottai, Thanjavur District.

... Respondents in WP(MD) No.18282 of 2023

WP(MD) No.11395 of 2024

S.Parameswari

... Petitioner in WP(MD) No.11395 of 2024

Vs



W.P.(MD) Nos. 18282 of 2023 & 11395 of 2024

1. The Deputy Superintendent Of Police,
Economic Offence Wing,
Multi Store, Building,
1st Floor, Mannarpuram,
Trichy – 620 020.

2. The Inspector of Police,
Economic Offence Wing,
53, Rajappa Nagar,
1st Cross, Thanjavur,
Tamilnadu – 613 001.

3. The Inspector of Police,
Pattukottai Police Station,
(FIR No. 109/2023),
Thanjavur.

... Respondents in WP(MD) No.11395 of 2024

PRAYER in WP(MD) No.18282 of 2023: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to de-seal the property situated at Door No. 75, Big Bazaar Street, Pattukkottai Town, Thanjavur District in the light of the judgement passed in Nevada Properties Pvt Ltd Vs. The State of Maharashtra (Reported in 2020(3) SCC CrI. 782) by considering the petitioner's representation, dated 27.06.2023.

PRAYER in WP(MD) No.11395 of 2024: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 1st and 2nd respondent to consider petitioner representation dated 07.05.2024 and de-seal the petitioner's property situate at No.75, Periya Kadaitheru (Big Bazaar), Pattukottai, with Door Nos. 104, 104A,



W.P.(MD) Nos. 18282 of 2023 & 11395 of 2024

104B, 104C, 104D, which was arbitrarily locked and sealed by police

WEB COPY

In both petitions:

For Petitioners : Mr.M.Dhalapathy Vignesh Kumar

For Respondents: Mr.T.Senthil Kumar
Additional Public Prosecutor

COMMON ORDER

These writ petitions have been filed to direct the respondents to de-seal the properties of the petitioners, by considering their representations, dated 27.06.2023 & 07.05.2024.

2.The petitioners are husband and wife and claim that they are the owners of the premises. They are said to have purchased house properties from one Sundarapandian by way of registered sale deed on 06.12.2021. The said Sundarapandian, after selling the property entered into an agreement with the petitioners and he is running the business in the building. The said Sundarapandian has collected deposits from around 3000 customers and cheated to the tune of Rs. 37 crores.

3.On the complaint made by some of the depositors, a criminal



W.P.(MD) Nos. 18282 of 2023 & 11395 of 2024

case has been registered in Crime No. 109 of 2023 on the file of Pattukottai Police Station on 27.01.2023. Later, the case was transferred to District Crime Branch, Thanjavur on 12.02.2023 and now transferred to Economic Offence Wing on 22.06.2023 and now pending in Crime No. 1 of 2023 before the Deputy Superintendent of Police, EOW, Trichy.

4.The Accused No.1 was running the business in the premises belonging to the petitioners. A search was also conducted by the District Crime Branch on 30.03.2023 and properties have also been sealed. Now, the petitioners have preferred these petitions challenging the same and to de-seal the properties, on 25.07.2023 and 27.05.2024.

5.The learned counsel for the petitioners submitted that they are in no way connected with the case in Crime No. 1 of 2023. They are bonafide purchasers and the property belongs to them. Without any reason, the Respondent Police has sealed the properties and prevented them from utilizing the properties.



W.P.(MD) Nos. 18282 of 2023 & 11395 of 2024

6.The learned Additional Public Prosecutor submitted that during the course of investigation, the accused No.1 was running the business in the properties. The properties were seized by the District Crime Branch. The Economic Offences Wing Police has not taken any step. However, no such request has been made before the Economic Offences Police, for sealing of premises.

7.This Court by earlier order, dated 28.06.2024 directed the Respondent Police to file a report as to under which provision the buildings have been sealed.

8.In this regard, the learned Additional Public Prosecutor refers the provision under Section 107 of Bharatiya Nagarik Suraksha Sanhita, 2023 and submits that the Investigation Agency is entitled to seal the property. However, the learned Additional Public Prosecutor submitted that the E.O.W. Police have not sealed the properties. Now, the petitioners want to de-seal the properties.



W.P.(MD) Nos. 18282 of 2023 & 11395 of 2024

9. Further, the learned Additional Public Prosecutor submitted that the accused in this case has cheated amount to the tune of 37 crores. The petitioners are also having advance amount paid by the accused.

10. The learned counsel for the petitioners submitted that the accused is having arrears of rent of more than 5 lakhs and to show their bonafide, they are ready to return the advance amount paid by the accused to the Investigation Agency, if they de-seal the properties immediately.

11. Heard the rival submissions raised by the learned counsel for the petitioners and the learned Additional Public Prosecutor.

12. In view of the above discussions, the Respondents are directed to de-seal the properties forthwith and shall take inventory of the properties in the building and also seize the property belongs to the accused. The petitioners are directed to pay the advance amount, which they have received from the accused to the Respondent Police. The Respondent Police shall treat this amount as if it has been recovered from the accused and shall use it for the purpose of distributing the money to the depositors.



W.P.(MD) Nos. 18282 of 2023 & 11395 of 2024

13. In the above terms, these writ petitions stand disposed of.

Consequently, connected miscellaneous petitions are closed.

04.07.2024

NCC : Yes/No

Internet: Yes/No

Index: Yes/No

PNM

To

1. The Superintendent of Police,
Thanjavur District, Thanjavur.

2. The Inspector of Police,
District Crime Branch,
Thanjavur District, Thanjavur.

3. The Inspector of Police,
Pattukottai Police Station,
Pattukottai, Thanjavur District.

4. The Deputy Superintendent Of Police,
Economic Offence Wing,
Multi Store, Building,
1st Floor, Mannarpuram, Trichy – 620 020.

5. The Inspector of Police,
Economic Offence Wing,
53, Rajappa Nagar, 1st Cross, Thanjavur,
Tamilnadu – 613 001.

6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

7/8



WEB COPY



W.P.(MD) Nos.18282 of 2023 & 11395 of 2024

B.PUGALENDHI, J.

PNM

W.P.(MD) Nos.18282 of 2023 & 11395 of 2024
and W.M.P(MD) NoS.17562 of 2023 & 10130 of 2024

04.07.2024