



W.P(MD)No.29144 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.29144 of 2024

and

W.M.P(MD)No.24658 of 2024

S.George William

... Petitioner

Vs

- 1.The Inspector General of Registration,
100, Santhome High Road,
Raja Annamalaipuram,
Chennai - 600 028.
- 2.The District Registrar,
Registration Department,
Sivagangai.
- 3.The Sub Registrar,
Kaalaiyarkovil,
Sivagangai District.
- 4.The Manager,
Cholamandalam Investment & Finance Company Ltd,
'Dare House', 1st Floor,
No.2, N.S.C Bose Road,
Chennai - 600 001.
- 5.The Branch Manager,
Cholamandalam Investment & Finance Company Ltd,
Nos.2 & 3, G.V.Tower, 3rd Floor,
Melakkal Main Road,
Madurai - 625 016.
- 6.The Deputy Superintendent of Police,
Economic Offences Wing (EOW),
Ramanathapuram.



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7.The Sub Inspector of Police,
Economic Offences Wing (EOW),
Madurai.

... Respondents

*(RR 6 & 7 are impleaded vide order dated
11.12.2024 in W.M.P(MD)No.25111 of 2024)*

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned refusal check slip issued by the third respondent Sub-Registrar in Refusal No.RFL/Kalayarkoil/88/2024 dated 20.11.2024, quash the same as illegal and direct the third respondent to register forthwith the Deed of Cancellation of MODT registered vide Document No.5394 of 2022 dated 21.10.2022 in respect of petitioner's land with house in Survey No.205/26A2 to an extent of 9.8 cents in Somanathamangallam Village, Sivagangai District and allow him sell the same thereafter.

For Petitioner	: Mr.Isaac Mohanlal Senior Counsel for Mr.S.Sivakumar
For RR 1 to 3	: Mr.M.Sarangan Additional Government Pleader
For RR 4 & 5	: Mr.P.Pethu Rajesh
For RR 6 & 7	: Mrs.M.Aasha Government Advocate (Crl. Side)



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ORDER

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This Writ Petition has been filed by the petitioner challenging the refusal check slip issued by the third respondent dated 20.11.2024 thereby refusing to register the Deed of Cancellation of Memorandum of Deposit of Title Deeds which was presented in respect of the property comprised in Survey No. 205/26A2 to an extent of 9.8 cents situated at Somanathamangallam Village, Sivagangai District.

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

3.The petitioner had purchased the property comprised in Survey No.205/26A2 to an extent of 9.8 cents situated at Somanathamangallam Village, Sivagangai District registered sale deed dated 01.02.2021 vide Document No.351 of 2021. Thereafter, the said property was mortgaged with Cholamandalam Finance by way of registered Memorandum of Deposit of Title Deeds vide Document No.5394 of 2022, dated 21.10.2022 and availed loan to the tune of Rs.40,00,000/-. Since the petitioner's wife fell ill, he



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borrowed money from a third party to meet out medical expenses.

Therefore, the person, who spent money, is ready and willing to purchase the subject property and paid the entire loan amount to the Financier and presented the cancellation of the Memorandum of Title Deeds for registration before the third respondent. However, it was refused to register on the ground that the sixth respondent submitted representation not to register any conveyance from the purchase vide Document Nos.351 of 2021 and 5394 of 2022.

4.Mr.Isaac Mohanlal, learned senior counsel appearing for the petitioner would submit that the petitioner had deposited a huge amount with one 'Magilzhchi Real Promoters Private Limited' as a fixed deposit for interest. However, after maturity of the fixed deposit, no money was disbursed to the petitioner. In fact, the petitioner also introduced so many depositors to make a deposit. Finally, the said financial institution cheated all the depositors and on the complaint, F.I.R has been registered in Crime No.8 of 2022 for the offences under Sections 406, 420, 120(b) of I.P.C and Section 5 of the Tamil Nadu Protection of Interest of Depositors (Financial Establishment) Act, 1997 on the file of the sixth respondent. In pursuant to the registration of the F.I.R, the



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Investigating Officer submitted a representation before the third respondent not to register any of the documents in pursuant to the sale deeds registered vide Document Nos.351 of 2021 and 5394 of 2022. While pending investigation, the petitioner is also arraigned as an accused. Though the sixth respondent now identified the subject property and initiated proceedings of attachment under the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997 (in short hereinafter referred to as 'the Act, 1997'), so far no proposal has been sent to the Government to attach the subject property. Mere sending a letter would not suffice to stall the registration process. In support of his contention, he relied upon the Judgment of this Court in the case of **R.Madhupriya and another Vs. Inspector General of Registration and another** reported in **2020 SCC Online Mad 20112**, in which this Court held that the refusal of registration of documents merely based on letters issued by the Police unless a proper order of attachment is obtained from the competent authority under the relevant enactment cannot be accepted to stall the registration.



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5.The sixth respondent filed a counter-affidavit and on the submissions made by Mrs.M.Aasha, learned Government Advocate (Criminal Side) appearing for the respondents 6 and 7 would reveal that during the investigation, the petitioner is also arraigned as accused No.7 in Crime No.8 of 2022. Insofar as the petitioner is concerned, he received a sum of Rs.12,43,79,000/- from 179 depositors and cheated them. Therefore, the property owned by the petitioner was already identified and prepared the proposal to attach the properties. Totally, 28 properties belonging to the accused persons were identified for attachment to the worth of Rs.1,22,60,074/. Out of 28 properties, now the sixth respondent is preparing the proposal to attach 6 properties worth about Rs. 39,04,223/-, as per Section 3 of the TNPID Act.

6.The crime period is 2019-2022. Admittedly, the petitioner had purchased the subject property in the year 2021 vide Document No.351 of 2021 dated 01.02.2021. However, so far the sixth respondent did not sent any proposal to attach the subject property. As held by this Court, merely sending a letter by the Police official would not suffice to stall the registration proceedings. That apart, already there is a charge created by the petitioner by availing



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loan from the Cholamandalam Finance. After settling the entire amount, the petitioner wants to redeem the mortgage by presenting the cancellation of the Memorandum of Deposit of title deeds for registration. It is nothing but a receipt for registration to show that the entire loan amount has been repaid to the Financier.

7. Therefore, there is absolutely no impediment for the third respondent to register the cancellation of the Memorandum of Deposit of Title deeds in respect of the property comprised in Survey No.205/26A2 to an extent of 9.8 cents situated at Somanathamangallam Village, Sivagangai District. In fact, under Section 8 of the TNPID Act, the sixth respondent has to attach the property even from the transferee of the subject property. It is relevant to extract the provision under Section 8 of the TNPID Act:

'8. Attachment of Property of mala fide 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



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

(2) Where the said transferee does not appear and show cause on the specified date, or where after investigation in the manner provided in sub-Section (5) of section 7, the Special Court is satisfied that the transfer of the property to the said transferee was not in good faith and for consideration, the Special Court shall order the attachment of so much of the said transferee's property as is in the opinion of the Special Court equivalent to the proper value of the property transferred.'

Therefore, the sixth respondent is at liberty to attach the subject property at any time, even after transferred to any third party.



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8.In view of the above, the impugned refusal check slip issued by the third respondent dated 20.11.2024 is quashed. The petitioner is directed to represent the cancellation of Deposit of Memorandum of title deeds in respect of the property comprised in Survey No.205/26A2 to an extent of 9.8 cents situated at Somanathamangallam Village, Sivagangai District and on receipt of the same, the third respondent is directed to register and release the document forthwith. It is made clear that the sixth respondent is always at liberty to attach the subject property even after transfer in favour of the third party, if any, in the manner known to law.

9.With the above directions, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

**11.12.2024
(1/2)**

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

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G.K.ILANTHIRAIYAN, J.

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**11.12.2024
(1/2)**