



W.P.No.4073 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2025

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.4073 of 2025

R.Durgashankar

.. Petitioner

VS

1. The Inspector General of Registration
Tamil Nadu Government Registration Department
No.100, Santhome High Road
Chennai – 600 028.
2. The Sub-Registrar
Sriperumbudur SRO
No.27, Chetty Street
Sriperumbudur – 602 105.
3. The Sub-Registrar
Tenkasi Joint II SRO
Taluk Office Campus
Tenkasi, Tirunelveli – 627 811.
4. The Sub-Registrar
Vadavalli II SRO
No.4C, Arul Nagar
Maruthamalai Main Road
Vadavalli, Coimbatore – 641 041.

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5. The Sub-Registrar

Kotagiri SRO

No.44/92, Fern Cottage

Mission Compound, Kotagiri – 643 217.

6. The Sub-Registrar

Chennai South Joint – I SRO

No.9, Jennis Road, Saidapet

Chennai – 600 015.

7. The Deputy Director

Directorate of Enforcement

No.2, 5th and 6th Floor

BSNL Administrative Building

Kushkumar Road, Nungambakkam

Chennai – 600 034.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking a writ of mandamus, to direct the first respondent to remove the attachment made by the Enforcement Directorate i.e., the 7th respondent pertaining to the properties listed under Sl.No.9 to 14 to the Schedule – I of immovable properties to the PAO No.12/2022 dated 07.11.2022 based on the order dated 16.05.2024 passed by the Appellate Tribunal under SAFEMA at New Delhi in appeal bearing No.FPA-PMLA-5971/CHN/2023 and based on the representations dated 16.05.2024, 02.07.2024, 05.09.2024 and 19.11.2024 submitted before the 7th respondent to raise the attachment.

For Petitioner

: Mr.Nithyaesh Natraj
for M/s.Srilaw Associates

For Respondents

: Mr.Abishek Murthy
Government Advocate



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ORDER

This writ petition has been filed for issuance of a writ of mandamus, directing the first respondent to remove the attachments made by the Enforcement Directorate pertaining to the subject properties based on the order passed by the Appellate Tribunal under The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 [for brevity, hereinafter referred to as "the SAFEMA"] at New Delhi dated 16.05.2024.

2. Heard *Mr.Nithyaesh Natraj*, learned counsel appearing on behalf of *M/s.Srilaw Associates* for the petitioner and *Mr.Abishek Murthy*, learned Government Advocate for the respondents.

3. The petitioner was arrayed as an accused for the predicate offence in C.C.No.14 of 2019. Based on the same, proceedings

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were initiated under the Prevention of Money Laundering Act, 2002. The subject properties were attached by the 7th respondent by proceedings dated 07.11.2022. As a subsequent development, a quash petition was filed against the proceedings in C.C.No.14 of 2019 in CrI.O.P.No.7273 of 2023. This Court, by order dated 29.08.2023, quashed the proceedings and thereby, the predicate offence stood quashed. Consequently, the proceedings initiated under the Prevention of Money Laundering Act, 2002, in Enforcement Case Information Report (ECIR) No.CEZO-I/35/2020 dated 22.06.2020 was also quashed by a Division Bench of this Court in CrI.O.P.No.5304 of 2024 by the order dated 20.03.2024.

4. Pursuant to the above orders passed by this Court, the Appellate Tribunal under SAFEMA passed an order on 16.05.2024 and the relevant portion is extracted hereunder:

"We have considered the submission and perused the order of Madras High Court so as of the Apex Court. The predicate offence against the appellant Pravin Jaffar was subject matter before

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Apex Court and proceedings therein has been quashed. In the case of Mr.R.Durgashakar, the proceedings in reference to predicate offence and even the ECIR have been quashed thus looking to the fact aforesaid the order of the provisional attachment so as the order of its confirmation are hereby quashed. The appeals are allowed with the aforesaid."

5. Pursuant to the above orders, the petitioner gave a representation, seeking removal of the entries made in the encumbrance certificate with respect of the attachments made by the Enforcement Directorate. Since the entries were not removed, the present writ petition has been filed before this Court.

6. In the considered view of this Court, the attachments that were made by the Enforcement Directorate have been lifted by the Appellate Tribunal under SAFEMA through the order dated 16.05.2024. Hence, the attachment against the properties no longer subsists and there is no reason as to why the entries made in the encumbrance certificate should continue.

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7. In view of the same, there shall be a direction to respondents 2 to 6 to make necessary entries in the encumbrance certificate by taking note of the order passed by the Appellate Tribunal under SAFEMA at New Delhi and thereby, reverse the earlier entries made pursuant to the Order of Attachment passed by the Enforcement Directorate. This process shall be completed within a period of four weeks from the date of receipt of a copy of this order.

8. Resultantly, this writ petition is disposed of with the above directions. There shall be no order as to costs.

10.02.2025

Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

Neutral Citation: Yes/No

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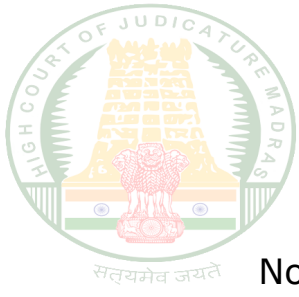
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To

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