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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.4969 of 2025

K.Rukmangathan

... Petitioner

Vs.

1.The Inspector General of Registration,
Office of Inspector General of Registration,
No. 100, Santhome High Road,
Pattinapakkam High Road,
Chennai - 600 028.

2.The Sub Registrar,
Office of the Registrar,
Villivakkam,
Chennai.

3.The Deputy Superintendent of Police,
Economic Offence Wing,
Ashok Nagar,
Chennai 600 083.

4.R.Prasanth

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the refusal check slip dated 10.12.2024 bearing refusal number RFL/Villivakkam/103/2024 issued by the



2nd respondent and quash the same and consequently direct the 2nd respondent to register Sale Deed in favour of the petitioner herein with respect to scheduled properties (subject properties) mentioned in the Document No.6650 of 2019 on the file of SRO Villivakkam , registration district of Central Chennai.

For Petitioner : Mr.N.R.Elango
Senior Counsel for
Mr.A.S.Aswin Prasanna

For Respondents : Mr.B.Vijay
Additional Government Pleader
for R1 & R2

Mr.V.J.Priyadarsana
Government Advocate for R3

ORDER

This writ petition has been filed challenging the impugned refusal Check Slip dated 10.12.2024 issued by the 2nd respondent and for a consequential direction to the 2nd respondent to entertain and register the Sale Deed dated 10.12.2024 executed in favour of the petitioner.

2.Heard Mr.N.R.Elango, learned Senior Counsel appearing on behalf of the petitioner, Mr.B.Vijay, learned Additional Government Pleader appearing on behalf



of the respondents 1 & 2 and Mr.V.J.Priyadarsana, learned Government Advocate (Criminal Side) appearing on behalf of the 3rd respondent.

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3.The only reason that has been assigned in the refusal Check Slip issued by the 2nd respondent is that there is a communication from the 3rd respondent to the effect that an FIR is pending investigation in Crime No.12 of 2022 which has been registered for offence under Sections 420 and 120(b) of IPC and Section 5 of the TNPID Act. Hence, the 3rd respondent has directed the 2nd respondent not to entertain any document pertaining to the subject property till the completion of the criminal proceedings.

4.The issue involved in the present case is squarely covered by the earlier judgement of this Court in ***R.Madhupriya and another vs. Inspector General of Registration and Another*** reported in ***2020 SCC Online Mad 20112***. The relevant portions are extracted hereunder:

5. The issue that has been raised in the present writ petition was already considered by this Court in W.P.No.1680 of 2020 by an order dated 03.08.2020. The relevant portions in the order is extracted hereunder.



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“5.The learned counsel appearing on behalf of the petitioner submitted that the petitioner is a bonafide purchaser who had nothing to do with the alleged crime, which is a subject matter of investigation in Crime No.2 of 2018. It was further submitted that a mere letter issued by the Police, cannot be a ground to refuse registration unless there is an order of the Court or some order of attachment is passed by the Competent Authority under the relevant Enactment.

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7.Mr.Annai Ezhil, learned Government Advocate appearing on behalf of the fourth respondent submitted that there is a criminal case that is pending investigation against M/s. Royal Agro Dairy Limited and the persons who were in-charge in running this Company, have cheated a large number of depositors running to several crores of rupees. It was further submitted that the police was able to identify certain properties which have been attached and which are going to be used for the purpose of settling the dues to the innocent depositors. The learned counsel therefore submitted that till the investigation is completed, with regard to the property which is the subject matter in this writ petition, the third respondent should not register any property standing in the name of M/s.Royal Agro Dairy Limited.

8.Mr.T.M.Pappiah, learned Special Government Pleader appearing on behalf of respondents 2 and 3 submitted that in view of the letter submitted by the Investigation Officer, the third



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respondent has made an entry in the Encumbrance Certificate and now he cannot go against the said entry and entertain any document that pertains to M/s. Royal Agro Dairy Limited and which covers the Survey Numbers mentioned in the Encumbrance Certificate. The learned counsel further submitted that the third respondent will act in accordance with any directions that may be issued by this Court.

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11. The concerned Investigation Officer has merely issued a letter to the third respondent, requesting the third respondent not to register any property standing in the name of M/s Royal Agro Dairy Limited. If the fourth respondent was sure about the fact that the property in question was also one which was purchased out of the criminal proceeds, then steps should have been taken to get the property attached as per the provisions of TANPID ACT. These steps have not been taken till date. The entry in the Encumbrance Certificate is based on only a letter.

12. It is now a well settled principle of law that the Bank has a priority over all the debts and the Government dues. The Hon'ble Full Bench of this Court in the case of The Assistant Commissioner (CT) Vs. Indian Overseas Bank reported in 2016 6 CTC 769 has held that on a conjoint reading of Section 26(E) of the SARFAESI ACT and Section 31(b) of the Recovery of Debt Due to Bank and Financial Institutions Act, 1993, it is the secured creditor who was a priority to realise the debt over all



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the other Government dues and unsecured creditors. Thus, the first respondent Bank will have a priority when it comes to realising the debt of a secured creditor:

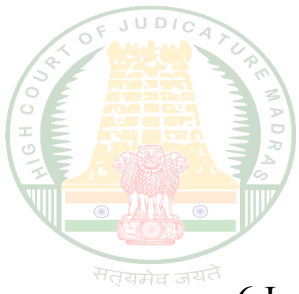
13. In view of the above discussion, the third respondent cannot refuse to register the Sale Certificate merely on the basis of the letter given by the Investigation Officer. The refusal slip issued by the third respondent on 24.03.2019 is hereby quashed. The third respondent is directed to receive the Sale Certificate dated 17.12.2019 from the petitioner and register the same on payment of the necessary stamp duty and registration charges and if the document is otherwise in order. It is made clear that the directions issued to the third respondent, confines only to the Sale Certificate issued in favour of the petitioner. This order should not be construed, as if, all the documents that stands in the name of M/s. Royal Agro Dairy Limited can be registered. As and when any such document is presented, it is the duty of the third respondent to bring it to the notice of the Investigation Officer. This direction is issued since it involves public interest where several depositors are said to have been cheated and they have lost their hard earned money. The Investigation Officer shall take immediate steps to get the property attached by the Competent Authority under the relevant Enactment. The direction issued by this Court in this writ petition will confine itself to the peculiar facts of the present case and it cannot be taken as a precedent for registration of any other document which is the subject matter of the criminal proceedings in Crime No.2 of 2018.”



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6. In the above order, this Court has categorically held against 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. In view of the same, the second respondent cannot prevent the petitioners from submitting documents for registration merely based on the letter issued by the police. In fact, such a letter should not be recorded in an Encumbrance Certificate since it is beyond the jurisdiction of the Police to restrain the owners of the property from dealing with the same. Therefore the second respondent shall also delete the entry made in the Encumbrance Certificate.

5. It is clear from the above judgement that the police is not vested with the power to direct the registering authority not to entertain any documents for registration. Section 102 of Cr.P.C., as it stood then did not vest any such power on the police insofar as immovable properties are concerned. The law on this issue is also now too well settled. Therefore, if at all any restraint has to be exercised by the Sub Registrar, it can only be done by virtue of attaching the property in accordance with the procedure under the TNPID Act. Apart from that, a mere communication from the police to the registering authority, cannot tie the hands of the Sub Registrar from performing his statutory duty.



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6. In the light of the above discussion, impugned order dated 10.12.2024 issued by the 2nd respondent, is hereby quashed. There shall be a direction to the 2nd respondent to entertain the Sale Deed and register the same, if it is otherwise in order.

7. In the result, this writ petition stands allowed with the above directions. No Costs.

19.02.2025

Internet : Yes

(1/2)

Index : Yes

Speaking Order / Non Speaking Order
ssr

To

1. The Inspector General of Registration,
Office of Inspector General of Registration,
No. 100, Santhome High Road,
Pattinapakkam High Road,
Chennai - 600 028.

2. The Sub Registrar,
Office of the Registrar,
Villivakkam,
Chennai.



3. The Deputy Superintendent of Police,
Economic Offence Wing,
Ashok Nagar,
Chennai 600 083.

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N. ANAND VENKATESH, J.

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