



Writ Petition No.8174 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.03.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.8174 of 2025

1.K.Madhusudhanan

2.Saurabh Mishra

... Petitioners

Vs.

1.The Sub Registrar,
Gudiyatham,
Vellore District - 632 602.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the first respondent to remove the remarks made in the book maintained by the first respondent pursuant to the letter C.No.254/DSP/EOW/IFS/2024 dated 14.12.2024 in respect of the subject matter of the Deed of Sale dated 08.07.2023 and registered as Document No.5808 of 2023 in the office of the Sub Registrar, Guidyatham, comprised in Old Town Survey No.669/1, New Town Survey No.669/5, measuring an extent of 2100 sq.ft., Block No.5, Ward 7, Sedukkarai Village, Gudiyatham Taluk, Vellore District.



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Writ Petition No.8174 of 2025

For Petitioners : Mr.V.Karthik, Senior Counsel
for Mr.M.Guruprasad

For Respondents : Mr.R.Sasikumar,
Government Advocate [R1]
Mr.Vinothraja,
Government Advocate [R2]

ORDER

This writ petition has been filed seeking issuance of a writ of mandamus directing the first respondent to remove the remarks made in the encumbrance register maintained by the first respondent based on the communication made by the second respondent dated 14.12.2024 with respect to the subject property.

2. Heard Mr.V.Karthik, learned Senior Counsel appearing for petitioner, Mr.R.Sasikumar, learned Government Advocate appearing for first respondent and Mr.Vinothraja, learned Government Advocate appearing for second respondent.

3. The case of the petitioners is that they had purchased the subject property in Old T.S.No.669/1, New T.S.No.669/5, measuring an



Writ Petition No.8174 of 2025

extent of 2100 sq.ft. from one Ramesh and three others through a registered sale deed dated 08.07.2023 registered as document No.5808 of 2023. After execution of the sale deed, the revenue records were also mutated in the names of the petitioners.

4. The grievance of the petitioners is that when they wanted to develop the property, they noticed that remarks were made in the encumbrance register maintained by the first respondent based on the communication made by the second respondent dated 14.12.2024 to the effect that the property cannot be dealt with since the case is pending in C.C.No.7 of 2022 as against the finance company based on the First Information Report registered in Crime No.16 of 2022.

5. Learned Senior Counsel appearing on behalf of the petitioners submitted that the petitioners are not accused persons in this case and the subject property was not even attached under the TNPID Act and the petitioners are restrained from dealing with the property only based on the communication that was made by the second respondent to the first respondent.

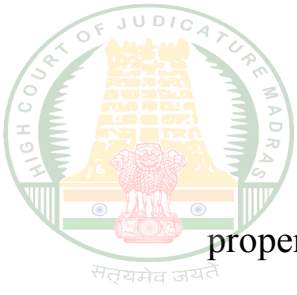


Writ Petition No.8174 of 2025

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6. In the considered view of this Court, this Court has repeatedly held that the investigating agency is not vested with any power under the Code of Criminal Procedure to send a communication to the Sub-Registrar and restrain a party from dealing with an immovable property. Such power was never given to the investigating agency under Section 102 Cr.P.C. In the instant case, there is no dispute with regard to the fact that the subject property is not subjected to an order of interim attachment. Therefore, merely by a communication made by the second respondent, a remark cannot be made in the encumbrance register and thereby, prevent the owner of the property from dealing with the property. This is more so since the petitioners are not accused persons in the criminal case and the property in question has not been attached in the pending proceedings. This issue was dealt with by this Court in very many cases and it will be more beneficial to take note of the order passed in W.P.No.11056 of 2024 dated 26.04.2024.

7. In the light of the above discussion, there shall be a direction to the first respondent to remove the remarks made in the encumbrance register maintained by the first respondent with respect to the subject



Writ Petition No.8174 of 2025

property, which was dealt with through a registered sale deed dated 08.07.2023, registered as document No.5808 of 2023 and this process shall be completed by the first respondent within a period of two (2) weeks from the date of receipt of a copy of this order.

This writ petition is disposed of with the above direction. No costs.

10.03.2025

Neutral Citation: Yes/No
Index: Yes/no
Speaking Order/Non-Speaking Order
gm

To

- 1.The Sub Registrar,
Gudiyatham,
Vellore District - 632 602.
- 2.The Deputy Superintendent of Police,
Economic Offence Wing,
Ashok Nagar, Chennai - 600 083.



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Writ Petition No.8174 of 2025

N.ANAND VENKATESH, J

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Writ Petition No.8174 of 2025

10.03.2025

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