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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 8968 of 2025

H.Padma

Petitioner(s)

Vs

1. The Sub Registrar
Sub Registrar Office, Kundrathur,
Chennai-600 128.

2.State Rep. by
The Inspector of Police,
Central Crime Branch,
Tambaram, Chennai

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, call for the record relating to the order made in Refusal check slip vide Refusal No.RFL/Kundrathur/51/2024 dated 20.11.2024 passed by the 1st respondent and quash the same and consequently direct the 1st respondent to register the settlement deed in respect



of the property comprised in Old Survey No.26/1 and 263, patta No.1582, New Survey No.26/41, Plot No.5, to an extent of 841 sq.ft at Mananjeri village, Kundrathur (T.K), Kanchipuram District.

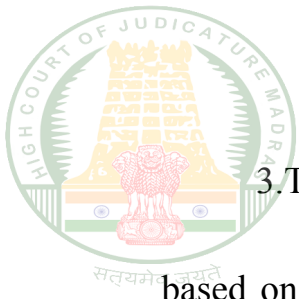
For Petitioner(s): Mr.V.C.Vinoth Kumar

For Respondent(s): Mr.U.Baranidharan
Special Government Pleader
for R1
Mr.V.J.Priyadarsana
Government Advocate for R2

ORDER

This writ petition has been filed challenging the impugned refusal Check Slip dated 20.11.2024 issued by the 1st respondent and for a consequential direction to the 1st respondent to register the Settlement Deed executed by the petitioner in favour of her son with respect to the subject property.

2.Heard Mr.V.C.Vinoth Kumar, learned counsel appearing on behalf of the petitioner, Mr.U.Baranidharan, learned Special Government Pleader appearing on behalf of the 1st respondent and Mr.V.J.Priyadarsana, learned Government Advocate (Crl. Side) appearing on behalf of the 2nd respondent.



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3. The refusal Check Slip has been issued by the 1st respondent mainly based on the communication that was received from the 2nd respondent to the effect that an investigation is pending in Crime No.37 of 2023 and the present property is involved in the same.

4. In the considered view of this Court, the issue involved in the present case is squarely covered by the earlier judgement of this Court in ***R.Madhupriya and Another vs. The 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.

“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



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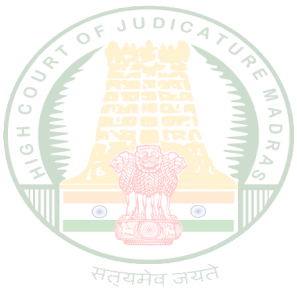


2018. It was further submitted that a mere letter issued by the Police, cannot be a ground to refuse registration unless there is an order of the Court or some order of attachment is passed by the Competent Authority under the relevant Enactment.

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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 respondent has made an entry in the



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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



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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 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



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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.”

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. In view of the above, the 1st respondent cannot refuse to register the

document only based on a communication received from the police to the effect



that the investigation is pending. In view of the same, the impugned refusal

Check Slip dated 20.11.2024 issued by the 1st respondent is hereby quashed and

there shall be a direction to the 1st respondent to register the Settlement Deed, if

it is otherwise in order.

6. In the result, this writ petition stands allowed with the above directions.

No Costs.

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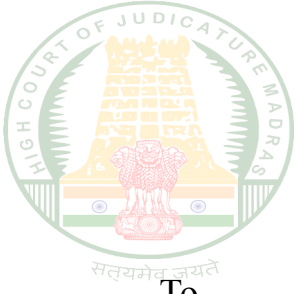
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

SSR



To
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1.The Sub Registrar
Sub Registrar Office,
Kundrathur, Chennai-600 128.

2.The Inspector of Police,
Central Crime Branch,
Tambaram, Chennai.



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N.ANAND VENKATESH J.

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