



W.P.(MD) No.3781 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD)No.3781 of 2025

Maragatham

... Petitioner

Vs

1. The District Registrar (Administration),
Registration Department,
Karur District.

2. The Sub Registrar,
Registration Department,
Kulithalai,
Karur District.

3. The Inspector of Police,
Economic Offence Wing-II,
Karur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the first respondent vide his proceedings in Na.Ka.No.5063/Aa1/2022 dated 07.11.2023 and quash the same as illegal and consequently direct the second respondent to register the sale deed or settlement deed or any other documents with respect to the petitioner's undivided 1/5th share in the property comprised in Survey No.48/1B2 and 48/2H situated at Satyamangalam Village, Kulithalai Taluk, Karur District.



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For Petitioner : Mr.J.Lawrance
For Respondent Nos.1 & 2 : Mr.P.T.Thiraviam,
Government Advocate
For Respondent No.3 : Mr.M.Karunanithi
Government Advocate

ORDER

This writ petition has been filed seeking to quash the proceedings of the first respondent dated 07.11.2023, in Na.Ka.No.5063/Aa1/2022.

2. Heard, Mr.J.Lawrance, appearing for the writ petitioner, Mr.P.T.Thiraviam, learned Government Advocate for Respondent Nos.1 and 2 and Mr.M.Karunanithi, learned Government Advocate for Respondent No.3.

3. The following facts are not in dispute

i) The property comprised in S.Nos.48/1B2 and 48/2H situated at Sathyamangalam Village, Kulithalai Taluk, Karur District belonged to one Lakshmanapillai. He passed away on 30.08.1983. After his death, Lakshmanapillai's wife and his children, namely, Maragatham, the petitioner herein, Mahalingam, Kumaravel, Varadaraj and Krishnamoorthi succeeded to his estate. The wife of Lakshmanapillai is



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no more. Hence, the children of Lakshmanapillai have equal shares to the property. The petitioner is the daughter of the said Lakshmanapillai.

ii) She is intended to alienate her 1/5th share in favour of the third party. She presented a document for registration on 10.10.2022. The document was returned stating that the original sale deed executed in favour of Lakshmanapillai in Doc.No.2024/1978 on 18.10.1978 was not enclosed and secondly, the property had been attached by the third respondent in Crime No.2 of 2020. The second respondent has also informed that the third respondent had instructed him not to permit any alienation over the property. Aggrieved by the same, the present writ petition is filed.

4. When the matter came up for admission, Mr.Thiraviam, learned Government Advocate submitted that the property has been attached pursuant to the proceedings initiated under the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997 (TNPID) and therefore, the second respondent has no other option than to reject any document presented for registration.



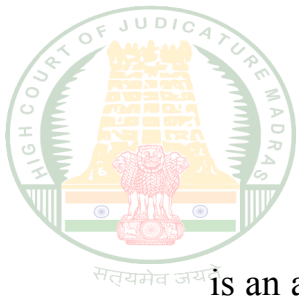
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5. Mr.M.Karunanithi, learned Government Advocate pointed out that the son, husband and the brother of the petitioner are accused in Crime No.2 of 2020 before the Economic Offences Wing -II, Karur District. Hence, he states that the third respondent had informed the Sub-Registrar not to receive any documents with respect to the S.Nos.48/1B2 and 48/2H of Sathyamangalam Village, Kulithalai Taluk, Karur District. He also states that a proposal has been sent by the third respondent to the Government of Tamil Nadu to invoke the provisions of TNPID Act and to attach the aforesaid property. Mr.M.Karunanithi, is clear that as on date, the competent authority has not passed any order of attachment.

6. I have carefully considered the averments made on either side and I have gone through the records.

7. The document presented for registration on 10.10.2022, has been rejected on two grounds. The first ground is that the original sale deed executed in favour of Lakshmanapillai on 18.10.1978 has not been produced before the Sub-Registrar. The second point is being that there



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is an attachment and thereby, inviting Section 22B (3) of the Registration Act, 1908.

8. The first point need not detain us for long, since it has been settled by catena of decisions that the Sub-Registrar cannot demand for production of original sale deed for the purpose of registration of a document. If a certified copy of the sale deed is produced, the Sub-Registrar can receive the document and register the same.

9. The second point is that one which looms large in this case. Neither the Criminal Procedure Code nor the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, empowers the police to attach a property of the accused. The police are empowered under several legislations to move the jurisdictional Magistrate or the Special Courts for the purpose of effecting attachment. To give an example, under the Criminal Law (Amendments) Ordinance, 1944, the police are entitled to move the Principal District Judge to attach assets, which are proceeds of crime and arise out of offences specified in the schedule to the ordinance. Section 107 of BNSS enables the police to approach the Magistrate for the purpose of attachment.



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10. In fact, the TNPID Act enables the competent authority, namely, the District Revenue Officer to attach the property belonging to a person, who would be covered by that section. However, none of the laws empowers the police to attach the property directly exercising their executive/ police powers.

11. Section 22B (3) of the Registration Act contemplates a situation where a property is attached by a competent authority exercising powers under the State or the Central Act or by any court or tribunal.

12. It is admitted by the respondents that till date, the competent authority has not attached the property under the TNPID Act. That being the position, by a mere letter a person cannot be prevented from exercising a right to alienate a property, which is protected under Article 300-A of the Constitution of India.



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13. All that is before the Sub Registrar, is a letter written by the third respondent police. As the third respondent police is not the competent authority either under the State Act or Central Act and as they have not approached any court or tribunal seeking orders of attachment, nothing prevents the second respondent from registering the document.

14. One further aspect in favour of the petitioner is that she is not an accused in Crime No.2 of 2020 on the file of the third respondent. She has not obtained the property by virtue of any purchase that has been made by her after the financial institution had been commenced by her brother, her husband and son. She succeeds to estate on account of the death of her father, Lakshmanapillai on 30.08.1983.

15. In the light of the above legal and factual discussion, I have no other option than to allow the writ petition. The order impugned in this writ petition is hereby set aside. There shall be a direction to the second respondent to entertain the sale deed that is presented by the writ petitioner with respect to her share in the property.



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16. With the above said observations, this writ petition is allowed.

No costs.

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

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V. LAKSHMINARAYANAN, J.

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