



W.P(MD)No.3386 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2025

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.3386 of 2023

G.Mohan

... Petitioner

Vs

1.The Joint Sub Registrar - II,
O/o.Joint Sub Registrar,
Palani,
Dindigul District.

2.The Inspector of Police,
Economics Offence Wing - II,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the second respondent to issue no objection certificate to the first respondent to remove the endorsement made in the footnote of the index in respect of the housing plot No.33, comprised in Survey No.128/2 measuring to an extent of 2387 sq. feet situated at Chinnakalaiyamputhur Village, Palani Taluk, Dindigul District registered as Document No. 1238 of 2012 dated 28.03.2012 by considering the petitioner's representation dated 08.03.2022.



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For Petitioner : Mr.T.Lenin Kumar
For R – 1 : Mr.S.P.Maharajan
Special Government Pleader
For R – 2 : M/s.M.Aasha
Government Advocate (Crl. Side)

ORDER

This Writ Petition has been filed by the petitioner for a direction directing the second respondent to issue No Objection Certificate to remove the endorsement made in the footnote of the index in respect of the housing plot No.33 comprised in Survey Survey No.128/2 admeasuring 2387 sq. feet situated at Chinnakalaiyamputhur Village, Palani Taluk, Dindigul District.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The petitioner purchased the housing plot No.33 comprised in Survey No.128/2 admeasuring 2387 sq. feet situated at Chinnakalaiyamputhur Village, Palani Taluk, Dindigul District from one K.Jeganathan by the registered sale deed dated 28.03.2012 vide Document No.1238 of 2012 for valid sale consideration. After purchase, the petitioner was issued patta and all revenue records



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were mutated in his favour in respect of the said property. While being so, on the complaint, the second respondent registered the F.I.R in Crime No.6 of 2021 for the offences under Sections 406, 420, 120(b) of I.P.C and Section 5 of TNPID Act, 1997 in which the petitioner's vendor is arrayed as the third respondent. In pursuant to the registration of F.I.R, the second respondent, who is being the Investigating Officer, sent a communication treating the petitioner as malafide transferee to the first respondent and it was made in the footnote in respect of the subject property in the encumbrance. Therefore the petitioner could not able to deal with the property.

4.On perusal of the F.I.R and final report would reveal that the crime period is from 2017 onwards. Whereas the petitioner had purchased the subject property in the year 2012. That apart, the petitioner's vendor namely the third accused had purchased the subject property in the year 1993 vide Document Nos.1235, 285, 286 and 250 of 1993. Therefore the subject property was not purchased from any crime proceeds. Now the second respondent treated the petitioner as malafide transferee under Section 8 of the Tamil Nadu Protection of Interests and Depositors (In Financial Establishment) Act, 1997.



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5.As stated supra, the subject property was purchased by the third accused in the year 1993 and in turn he sold out the subject property in favour of the petitioner in the year 2012. But the crime period is only from 2017 and F.I.R has been registered in the year 2021. After laying charge-sheet now the accused persons are facing trial in C.C.No.5 of 2023 on the file of the Special Court under the TNPID Act, Madurai. Though the second respondent identified the subject property which was originally belonged to third accused and sent a communication to the competent authority to take steps to attach the property, so far no order has been passed to attach the subject property. Now the charge sheet has been laid and accused persons are facing trial in the criminal Court. Therefore the subject property is nothing to do with the crime committed by the third accused and the petitioner cannot be treated as a malafide transferee. If the property purchased from the crime proceeds and after registration of the F.I.R if the accused transferred the property with malafide intention in favour of the third party, the said third party can be treated as malafide transferee. Therefore the petitioner is not a malafide transferee and the property which was purchased by him was not purchased from the crime proceeds. In view of the above, the petitioner can very well deal with the subject property in housing plot No.33 comprised in Survey No.128/2 admeasuring



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2387 sq. feet situated at Chinnakalaiyamputhur Village, Palani Taluk, Dindigul District. The first respondent is directed to make a note of this order and permit the petitioner to deal with the property in future.

6. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

27.01.2025

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

1. The Joint Sub Registrar - II,
O/o. Joint Sub Registrar,
Palani,
Dindigul District.
2. The Inspector of Police,
Economics Offence Wing – II,
Madurai.



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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