



W.A(MD) No.854 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 03.02.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.A(MD) No.854 of 2021
and
C.M.P.(MD)Nos.3789 & 3790 of 2021**

N.Thennagaventhana

... Appellant / Petitioner

Vs

**1.The Sub Registrar-II (Joint) Office,
Represented by Sub Registrar,
Karaikudi, Sivagangai District.**

**2.The Deputy Superintendent of Police,
CBCID, Madurai.**

... Respondents / Respondents

3.A.P.Majeed Khan

... Respondents / Impleaded

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order of this Court dated 04.11.2020 made in W.P.(MD)No.7777 of 2020 on the file of this Court.

For Appellants : Mr.R.Maheswaran

**For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader for R1**



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: Mr.A.Albert James
Government Advocate (Crl.side) for R2

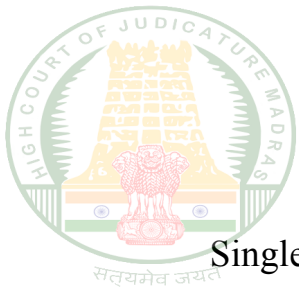
: Mr.S.Bharani Kannan for R3

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The third respondent herein A.P.Majeed Khan lodged complaint before CBCID, Sivagangai alleging that one Victor, Raja Meerah and 10 others cheated him to the tune of Rs.350 crores on EC terms. Crime No. 2 of 2019 was also registered on 02.08.2019. Thereafter, the Deputy Superintendent of Police, CBCID-OCU, Madurai City vide communication dated 11.12.2019 called upon the Sub Registrar-II, Karaikudi not to entertain any registration in respect of the properties covered by the petition mentioned documents. Questioning the same, the appellant herein filed W.P.(MD)No.7777 of 2020. The writ petition was disposed of by the learned single Judge on 04.11.2020. The learned



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Single Judge agreed with the contention of the learned counsel for the petitioner that under Section 102 of Cr.P.C., the police have no right to seize any property and directed lifting of the attachment. But then, taking note of the involvement of the appellant in a serious crime, he directed that no further encumbrance would be made on the property in question. Since it was a case of what is colloquially known as “operation success patient died”, the writ petitioner has filed this writ appeal.

3. The learned counsel appearing for the appellant drew our attention to the decision of the Hon'ble Supreme Court **(1999) 7 SCC 685 (State of Maharashtra Vs. Tapas)** and the decision of the Hon'ble Supreme Court reported in **2019 0 AIR (SC) 4554 (Nevada Properties Private Limited Vs. State of Maharastra)**. It was held therein that the expression “any property” occurring in Section 102 of Cr.P.C will not include the immovable property.

4. We fully endorse the contention advanced by the learned counsel appearing for the appellant. But then, since we are also exercising equitable jurisdiction, the hard facts staring at our face cannot



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be lost sight of. The appellant herein had purchased the land worth about Rs.20,00,000/- and constructed a building valued at Rs.59,00,000/- The building contractor Thiru.Vairavan had also given the statement under Section 164 of Cr.P.C before the jurisdictional Magistrate. The appellant has not been able to demonstrate his wherewithal before us. The appellant figured as A4 in the criminal case. The criminal case has since been charge sheeted and taken on file in C.C.No.262 of 2022 on the file of the Judicial Magistrate No.II, Sivagangai.

5. We are of the view that interest of justice will be met by entering the impugned direction in question in the encumbrance register maintained by the jurisdictional Sub Registrar. The learned counsel for the appellant states that it has already been entered in the EC. The said letter of the investigation officer may not have the effect of attachment. But then, the prospective buyer will know that the property settled in the name of the appellant is involved in a criminal case and that his rights may suffer an adverse outcome in the event of the appellant being convicted. The prospective buyer cannot contend that he has no knowledge of the actual facts. The buyer would then be making the



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purchase at his own risk.

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6. The order impugned in this writ appeal is accordingly modified.

The writ appeal is disposed of accordingly in the aforesaid terms. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S., J.) (M.J.R., J.)
03.02.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
rmi

To

- 1.The Sub Registrar-II (Joint) Office,
Represented by Sub Registrar,
Karaikudi, Sivagangai District.
- 2.The Deputy Superintendent of Police,
CBCID, Madurai.



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