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IN THE COURT OF THE PRINCIPAL CITY CIVIL AND
SESSIONS JUDGE, AT BENGALURU

Dated this the 11th day of March, 2025

Present: Shri Muralidhara Pai B.
B.Com., LL.B.
Principal City Civil and Sessions Judge,
Bengaluru.

Crl. Misc. No. 6067/2018

Petitioner : The State of Karnataka,
Yelahanka Police Station,
Bengaluru.

[By Sri Chinnavenkataravanappa,
Public Prosecutor]

Vs.

Respondent : Srinivas Gowda,
S/o late T. Narayana Swami,
Age 45 years,
Sri Durga Properties,
No.5 & 6, 3rd Floor,
B.B. Road, N.H. 7 Road,
Yelahanka, Bengaluru – 64.

(Absent)

Objector : Talera Gehlot Developers LLP,
Office at No.294,
K. Kamaraj Road,
Bengaluru – 560 042,

Represented by its
Designated Partner

(By Sri M. Gautham, Advocate)

ORDER

On 19.7.2019 the Objector namely Talera Gehlot Developers LLP represented by its designated partners have filed this application under Section 4(4) of the Criminal Law Amendment Ordinance 1944 praying to release the attachment of properties i.e. portion of converted Sy. No.53/2 measuring 14 guntas out of 1 acre 1 gunta therein, Sy. No. 52/2 measuring 32½ guntas, Sy. No.137 measuring 35¼ gunta, Sy. No.135/1 measuring 1 acre 4 guntas and Sy. No.136/1 measuring 4 guntas, in the interest of justice.

2. The prosecution has filed objection to this application on 5.3.2020.

3. Afterwards, inquiry was held on this application. During such inquiry, Sri Bharath Gelhot, who is one of the Partners of Talera Gehlot Developers LLP, deposed before the Court as RW-1 and got marked documents at Ex.R1 to Ex. R21.

4. Heard learned Counsel for Objector and learned Public Prosecutor.

5. The following points would arise for the consideration of this Court:

1. Whether the Objector has made out valid ground to allow the application?
2. What Order?

6. The findings of this Court on the above points are under:

Point No.1:- In the Affirmative;

Point No.2:- As per final order;

for the following:

REASONS

7. Point No.1: On 27.7.2018 the jurisdictional police represented by the Investigating Officer i.e. Sri C.R. Ravi Shankar, Dy.S.P. CID, Bengaluru had maintained an application under Section 3 of Criminal Law Amendment Ordinance 1944 praying to attach 15 properties more fully described in the list annexed to the application on the ground that they are the properties acquired by the accused namely

Srinivasa Gowda by committing offenses punishable under Sections 406, 420 read with Section 34 of IPC.

8. Based on said application, this Court passed an interim order on 3.8.2018 and issued a warrant for attachment of those properties. Pursuant to the same, such warrant was executed in respect of some of the properties i.e. Item Nos.2, 6 & 7 and same was reported to the Court on 5.2.2019. Subsequently, i.e. on 19.7.2019 the Objector has filed the present application claiming their right, title and interest over the properties mentioned in their application and sought for release of their properties from attachment.

9. During pendency of the case for inquiry on the application, the Investigating Officer come up with one more requisition on 18.10.2022 praying to attach few more properties mentioned therein. Accordingly this Court passed an Order on the same day to attach the properties as stated in the requisition and directed to issue Attachment Order.

10. The Objector has maintained the present application praying to release the attachment in respect of

some of the properties on the ground that though initially these properties had been purchased jointly by them along with the accused namely Srinivasa Gowda, later the accused has executed Release Deeds in their favour and thereby released all his interest in those properties in favour of the Objector and thereby the accused has no right, title or interest in these properties.

11. Before proceeding further, this Court opines that it would be proper to refer the provisions of the Criminal Law (Amendment) Ordinance 1944. This Ordinance provides for attachment of the properties wherein there are reasons to believe that any person has committed any scheduled offense and procured such properties by means of scheduled offense.

12. As per Section 10 of the Ordinance, an order of attachment of property passed under this Ordinance would be in force for a period of "one year" where no Court has taken cognizance of alleged scheduled offense at the time when the order is applied for, unless the period was extended by an order or where a Court takes cognizance of the alleged

scheduled offense, then after termination of such criminal proceeding.

13. Further, the Ordinance contains the details of the cases falling under “scheduled offenses under the Ordinance”. As contemplated under the Ordinance an offense punishable under Section 417 or Section 420 of IPC would fall under the category of scheduled offense where the person deceived is the Central or State Government or a department of any such Government or a local Authority or a Corporation etc.

14. Coming to the case on hand, the materials on record indicate that though the case registered against the accused namely Srinivasa Gowda is for the offense under Section 420 of IPC, this case does not fall under the category of ‘scheduled offense’ under the Ordinance. It is because the accusation in the case is that the accused has executed an Agreement of Sale in respect of Site Nos.100 and 126 in Sri Durga Chaishalya Layout in favour of the de-facto Complainant and his wife with an intention of defrauding them and knowing that Bengaluru International Airport

Authority has not released such site for registration or for sale. Thus, the accusation in the case is that the accused has collected Rs.43,00,000/- from the de-facto Complainant ad his wife by playing fraud on them. The question of invoking the provisions of Ordinance would arise only where the person deceived is any Government, local body, Corporation etc. As such it is to be held that the jurisdictional police could not have invoked the provisions of the Criminal Law (Amendment) Ordinance 1944 for seeking attachment of the properties in the case.

15. Added to the above, as already pointed out, the jurisdictional police had moved an application on 27.7.2018 under Section 3 of the Ordinance praying for attachment of the properties detailed in the list annexed to the application. This Court passed an interim order on 3.8.2018. As per Section 10 of Ordinance such order would be in force for a period of one year, where no Court has taken cognizance of the alleged scheduled offense at the time when the order was applied for. The document produced before the Court by the Objector goes to show that the Investigating Agency has laid a

charge sheet in the case on 6.2.2020 i.e. beyond one year from the date of the application and even from the date of interim order. It is not the case of the prosecution that they have got extended such interim order in compliance with Section 10 of the Ordinance. As such it is to be held that the interim order passed on 3.8.2018 has come to an end on expiry of one year from the time when such an order was applied for by the Investigating Agency.

16. It is true that subsequently i.e. on 18.10.2022 the Investigating Agency has obtained an order of attachment in respect of few more properties. However, it is to be noted that the Objector is not seeking for release of attachment obtained under Order dated 18.10.2022. They have sought the order in respect of portion of property in Item No.1, Item No.2, Item No.6 and Item No.7 in the list of properties annexed to the application filed on 27.7.2018. In the above circumstances, this Court holds that irrespective of merit of the contention put forth by the Objector, they have made out valid grounds to allow their application as prayed for. Hence, Point No.1 is answered in the affirmative.

17. Point No.2: In the result, this Court proceeds to pass the following:

ORDER

The application filed under Section 4(4) of Criminal Law (Amendment) Ordinance, 1944 is allowed.

The Order of Attachment dated 3.8.2018 passed in respect of properties i.e. portion of converted Sy. No.53/2 measuring 14 guntas out of 1 acre 1 gunta therein (Item No.1), Sy. No. 52/2 measuring 32½ guntas (Item No.2), Sy. No.137 measuring 35¼ gunta (Item No.6) and Sy. Nos.135/1 measuring 1 acre 4 guntas and 136/1 measuring 4 guntas (Item No.7) is raised and these properties are released from attachment as prayed in the application.

(Dictated to the Stenographer Grade-II directly on the computer, typed by her, then corrected and pronounced by me in the Open Court on this the 11th day of March, 2025)

(Muralidhara Pai B.)
Principal City Civil & Sessions Judge,
Bengaluru.

ANNEXURE

List of the witnesses examined for the Petitioner: Nil

List of the witnesses examined for the Respondent : Nil

List of the witnesses examined for the Objector:

RW- 1	Bharath Gehlot
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List of the documents marked for the Petitioner: Nil

List of the documents marked for the Respondent : Nil

List of the documents marked for the Objector:

Ex.R-1	Certified copy of the Sale Deed dated 30.9.2015
Ex.R-2	RTC of Sy.No.53/2
Ex.R-3	Certified copy of Encumbrance Certificate
Ex.R-4	Certified copy of the Sale Deed datrd 8.10.2015
Ex.R-5	RTC of Sy.No.135/1
Ex.R-6	RTC of Sy.No.136/1
Ex.R-7	Certified copy of Encumbrance Certificate
Ex.R-8	Certified copy of Sale Deed dated 30.9.2015
Ex.R-9	RTC of Sy.No.33/2
Ex.R-10	Certified copy of nil encumbrance certificate
Ex.R-11	RTC of Sy.No.137/7
Ex.R-12	Certified copy of Encumbrance Certificate
Ex.R-13	Certified copy of the Sale Deed dated 30.9.2015
Ex.R-14	RTC for the year 2021-2022 (3 pages)
Ex.R-15	Original copy of Release Deed datd 1.1.2016 by Sri Durga Properties in favour of Talera Gehlot Developers regarding property bearing Sy. No. 137
Ex.R-16	Original copy of Release Deed dated.1.1.2016 in respect of Sy. No. 135/1 and 136/1
Ex.R-17	Original copy of Release Deed dated.1.1.2016 in respect of Sy. No. 52/2

Ex.R-18	Original copy of Release Deed dtd.1.1.2016 in respect of Sy. No. 53/2
Ex.R-19	Office copy of notice sent to Srivatsa Associates dtd.18.7.2019
Ex.R-20	Original return notice with acknowledgment
Ex.R-21	Original return notice with acknowledgment

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