

**R.O.C.No.387-A/2015/F1****Dated 19/02/2015**

From

23 FEB 2015

P. Vadamalai, B.Com., B.L.,  
Officer-on-Special Duty (District Judge)  
High Court of Madras,  
Chennai-104.



To

1. All the Principal District Judges including Chief Judge, Puducherry, Principal Judge, City Civil Court, Chennai and District Judge, Karaikal, Chief Judge, Court of Small Causes, Chennai.
2. All the Chief Judicial Magistrates including Chief Metropolitan Magistrate, Chennai.

Sir/Madam,



Sub:

Courts - Records - Distinction of records in the Subordinate Courts - Order of the Hon'ble First Division Bench in W.P.No.22249/2007 - Copy of the Government letter - Communicated - Compliance report - Requested - Reg.

Ref:

1. Order of the High Court in W.P.No.22249/2007 dated 02.07.2007.
2. G.O.Ms.No.1509, Home (Cts-I) Department, dated 25.10.2007
3. Order of the High Court in W.P.No.22249/2007 dated 17.03.2008.
4. Letter No.26240, Home(Cts.I) Department, dated 15.05.2008

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I am to state that the Hon'ble First Bench of the High Court vide its order in W.P.22249/2007 has, among other things, directed the District Judges of all the Districts, the Principal Judge, City Civil Court, Chennai, the Chief Metropolitan Magistrate, Egmore, Chennai and the Chief Judicial Magistrate of all districts to handover the properties either confiscated or directed to be returned to the parties concerned, which remain unclaimed by the concerned parties to the respondents 5 and 6 or any other authorities appointed by the 5<sup>th</sup> respondent to deal with such properties, in accordance with law. The 5<sup>th</sup> and 6<sup>th</sup> respondents are directed to complete the above said process of receiving good expeditiously.

D. 001351

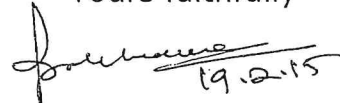
25/2/15

In pursuance of the above directions, the Government of Tamil Nadu had issued a G.O., under reference 2<sup>nd</sup> cited. The High Court taking note of the fact that the said G.O. is not in consonance of the order of the court under reference 1<sup>st</sup> cited issued further directions under reference 3<sup>rd</sup> cited. The Government again issued a letter No.26240/Cts.I/2008-4, dated 15.05.2008 requesting the officials concerned to take charge of the confiscating properties and remove them from the court campus and then to follow the procedure laid down in the G.O.

The orders of the High Court in W.P.No.22249/2007, dated 02.07.2007 & 17.03.2008 consequent Government Order in G.O.Ms.No./1509, dated 25.10.2007 had already been communicated to all the Principal District Judges and Chief Judicial Magistrates for information and compliance. With regard to further instructions vide Government letter No.26240/Cts.I/2008-4, dated 15.05.2008, has been forwarded to all the District Judges and other office bearers directly by the Secretary to Government, Home Department.

As directed, I am to request you to submit the action taken report thereon and also submit a compliance report to this Registry, at an early date.

Yours faithfully



**Officer on Special Duty  
(District Judiciary)**

**Enclosures:-**

1. Order of the High Court in W.P.No.22249/2007 dated 02.07.2007 & 17.03.2008
2. G.O.Ms.No.1509, Home (Cts-I) Department, dated 25.10.2007
3. Letter No.26240, Home (Cts.I) Department, dated 15.05.2008

Sl.No. 19.



46767/07  
62475



Abstract

W.P.No.22249/2007 - Implementation of direction of High Court, Madras - Constitution of Expert Committee and Auctioning and confirmation Committee and prescription of procedure for disposal of confiscated vehicles at various Magistrate Courts - Auction Committee for disposal of confiscated properties other than Vehicles in respect of Prohibition and Enforcement Wing - Empowering of Authorities for Confiscation of Essential Commodities under Essential Commodities Act - Orders - Issued.

HOME (COURTS.I) DEPARTMENT

② G.O.(Ms) No.1509

Dated: 25.10.2007.

Read :

- ①
- 1) Order of the High Court, Madras dated 2.7.2007 in W.P.No:22249/2007.
  - 2) From the Director, Motor Vehicles Maintenance Department, Chennai Letter Rc.No:112/15458/2007, dated 8.9.2007.
  - 3) From the Director General of Police, Chennai Letter Rc.No.165062/Crime IV (2)/2007, dated 27.9.2007.

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ORDER:

In W.P.No.22249/2007 filed by the Registrar General, High Court, Madras it has been brought to the notice of the High Court that the Subordinate Criminal Courts are facing severe hardships to find sufficient accommodation for keeping the case properties in criminal cases and in most of the cases, the valuable properties, like cycles, two wheelers are kept outside the Court Buildings, till disposed of by Public auction or return of properties in favour of the parties, which takes normally very long period, which also results to heavy loss to the State Exchequer.

2. The High Court, Madras, in its Judgement dated: 2.7.2007 has directed respondents 1 to 4, who are the District Judges of all Districts; the Principal Judge, City Civil Court, Chennai, the Chief Metropolitan Magistrate, Egmore, Chennai and the Chief Judicial Magistrate of all Districts to handover the properties either confiscated or directed to be returned to the parties concerned, which remain unclaimed by the concerned parties to respondents 5 and 6 (The Secretary to Government, Home Department and the District Collectors of all the Districts) or any other authorities appointed by the Secretary to Government, Home Department (5<sup>th</sup> respondent) to deal with such properties, in accordance with law. The Secretary to Government, Home Department and District Collectors of all Districts have been directed to complete the above said process of receiving goods expeditiously.

3. The Director, Motor Vehicles Maintenance Department and the Additional Director General of Police (L&O) were consulted in the matter. The Director, Motor Vehicles Maintenance Department has sent the proposal for speedy disposal of the confiscated vehicles at the various Magistrate Courts in the State to the Government. The Government have carefully examined the above proposal of the Director, Motor Vehicle Maintenance Department, Chennai and have decided to accept it. Accordingly, the Government direct that an Expert Committee be constituted for inspection and valuation of the vehicle. The Committee shall have the following composition:-

- i) Unit Officer of Motor Vehicles Maintenance Department - Chairman
- ii) Motor Vehicle Inspector Grade I - Member I
- iii) A Technical Officer from the State Transport Corporation not below the rank of Assistant Engineer - Member II.

4. The procedure to be followed by the Expert Committee for the inspection and valuation of the vehicles shall be as follows:-

- I The Judicial Officers concerned shall follow the following format and send the same along with the requisition letter and a copy of the confiscation order to the Expert Committee for inspection of the vehicle.

Sl.No.	Vehicle Number	Make and type	Engine No.	Chassis No.	confiscation order No.	Place of parking.

- II The above said Committee shall inspect all the vehicles as requested by the Judicial Officer and assess the current market value of these vehicle with respect to the condition of each vehicle. After assessment of the value of the vehicles by the Expert Committee, the vehicles shall directly be auctioned and disposed of by the auctioning and confirmation Committee with the following composition

- i) The Regional Deputy Director of concerned region of the Motor Vehicles Maintenance Department - Chairman.
- ii) Unit Officers of Motor Vehicles Maintenance Department - Convenor.
- iii) A responsible officer from the Judicial Court - Member - I
- iv) Motor Vehicle Inspector Grade - I - Member - II
- v) A Technical officer from the State Transport Corporation not below the rank of Assistant Engineer - Member III



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5. The Procedure to be followed by the Auctioning and Confirmation Committee shall be as follows:-

- i) Wide publicity shall be made for the auction-cum tender of the vehicles through the local newspapers.
- ii) The persons willing to participate in the auction shall be allowed to see the vehicles in the parking places for 3 days before the date of the auction.
- iii) The place of auction shall be in the premises of Government Automobile Workshop situated in the respective jurisdiction of the Judicial Magistrate Courts.
- iv) The auction shall be conducted by the auctioning and confirmation Committee through auction-cum tender.
- v) After successful bidding of the vehicles, the above Committee shall confirm the bidding and payment for these vehicles has to be made within 3 working days by the successful bidders to the Unit Officers of Motor Vehicle Maintenance Department.
- vi) After getting confirmation orders of the Committee and after observing all the procedures, the unit officers of Motor Vehicles Maintenance Department, shall issue the release order to the bidders.
- vii) The Judicial authorities concerned shall handover the vehicles to the bidders as per release orders issued by the concerned Unit officers of Motor Vehicles Maintenance Department.

6. The Motor Vehicles Maintenance Department shall remit the proceedings of the auctions to Government under the following Head of Account:-

"0070-other Administrative Services - 60.Other Services 800.Other receipts Sale Proceeds of the confiscated/vehicles sold in Public auction (DPC 114.0070 60) 000 01 0009."

7. The Director, Motor Vehicles Maintenance Department in the estimating, Reconciling and controlling authority of the above new receipt sub-head of account.

8. The Director General of Police has drawn attention to G.O.(Ms) No.315 Prohibition and Excise Department dated 28.5.2004 wherein orders were issued for the formation of an Auction Committee for disposal of confiscated Vehicles in respect of Prohibition and Enforcement Wing. The Government have decided to form an Auction Committee based on the model contained in the above Government Order for disposal of confiscated properties other than vehicles in respect of Prohibition and Enforcement Wing. The Government accordingly direct

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that an Auction Committee be formed for disposal of confiscated properties other than vehicles in respect of Prohibition and Enforcement Wing with the following composition:-

- 1) Superintendent of Police /Commissioner of Police (of the District /Corporation concerned) : Chairman
- 2) Additional Superintendent of Police (Enforcement) of the District : Convenor
- 3) Assistant Commissioner (Excise / Deputy Commissioner (Excise) : Member
- 4) Automobile Engineer of Motor Vehicle Maintenance Department of the Districts/Cities : Member

9. The procedure to be followed by the Auction Committee for disposal of confiscated properties other than vehicles in respect of Prohibition and Enforcement Wing shall be as follows:-

- 1) The auction Committee shall have the value of the properties ordered to be confiscated fixed by the competent authority.
- 2) The Chairman of the Committee shall dispose of the properties to the best advantage of the Government not below the value fixed by the Committee.
- 3) The properties shall be sold by inviting sealed tenders/ by public auction to the highest value to the best advantage of the Government.
- 4) Wide publicity shall be made for inviting offers through selected tenders/public auction following guidelines issued in this regard by the Government in the Information and Tourism Department from time to time.
- 5) The Committee shall meet once in two months.
- 6) The Convenor shall report to the Additional Director General of Police, once in three months, full details of the properties ordered for confiscation by the competent authorities with the relevant data (i.e) Number of properties value fixed by the Auction Committee, the amount of value so fixed, the amount fetched through sealed tender/public auction and the amounts that have been deposited in the relevant head of account containing date of remittances etc. The Additional Director General of Police (Enforcement) shall send a consolidated report to the Government every quarter.

10. The Government also direct that the Collectors and District Revenue Officers are the authorities to confiscate Essential Commodities and that the Deputy Commissioner of Civil Supplies Department concerned shall exercise the

powers in respect of Chennai City, as per the procedure contained under section 6 A of Essential Commodities Act.

11. This order issues with the concurrence of Finance Department vide its U.O.No.69800/H1/2007-1, dated 25.10.2007.

(BY ORDER OF THE GOVERNOR)

S.MALATHI,  
SECRETARY TO GOVERNMENT

- X -

To

The Registrar General, High Court, Chennai - 104.  
The Director General of Police, Chennai - 4.  
The Inspector General of Police (Enforcement), Chennai - 4.  
The Inspector General of Police, (Food Cell) Chennai - 4.  
The Commissioner of Police, Chennai, Madurai, Trichy, Salem, Coimbatore, Tirunelveli  
The Deputy Commissioner (Food Cell), Chennai.  
All Principal District Judges in Districts.  
The Principal Judge, City Civil Court, Chennai - 104.  
The Transport Commissioner, Chennai - 5.  
The Managing Director, Tamil Nadu State Transport Corporation, Chennai - 2.  
The Director, Motor Vehicles Maintenance Department, Ashok Nagar, Chennai. 83  
All District Collectors.  
All Superintendents of Police.  
Copy to  
The Co-operation Food and Consumer Protection Department, Chennai - 9.  
The Transport Department, Chennai - 9.  
The Finance Department, Chennai - 9.

//Forwarded by order//

SECTION OFFICER.

Enclt. R.No-2750, dt- 23.2.2015

Copy communicated to the subordinate Judicial Officers in Tiruchirappalli District to Submit, I request on the action taken in this regard.

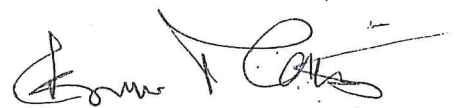
District Court,  
Tiruchirappalli  
Dt- 25-2-2015

To

The I/II/III Additional District Judge  
The Senior Judge, Madurai Court  
The Principal Subordinate Judge /I/II :-  
The Spl. Judge, Special Court for trial cases  
under provisions of Corruption Act cases.

Copy to

The Head Clerk, Dist Court, Trichy.

  
Principal District Judge  
Tiruchirappalli.

25-2-15

*Confiscate property  
in LL can*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2007

C O R A M :

THE HONOURABLE MR. A. P. SHAH, THE CHIEF JUSTICE  
AND  
THE HONOURABLE MR. JUSTICE P. JYOTHIMANI

W. P. No. 22249 of 2007

The Registrar General  
High Court, Madras 600 104.

... Petitioner

-vs-

1. The District Judge  
All the District.
2. The Principal Judge  
City Civil Court, Chennai.
3. The Chief Metropolitan Magistrate  
Egmore, Chennai 600 008.
4. The Chief Judicial Magistrate  
All the Districts.
5. The State of Tamil Nadu rep. By the  
Principal Secretary to Government  
Home Department, Secretariat  
Fort St. George, Chennai 9.
6. The District Collector  
All the Districts.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus as stated therein.

WP.No.22249 of 2007 :

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 4 to hand over the properties, either ordered to be confiscated to directed to be refunded to the parties concerned and which was not claimed by the parties, to respondents 5 & 6 or any other authorities appointed by the 5th respondent to deal with such properties in accordance with law.

For respondents :: Mr. Raja Kalifullah,  
5 and 6 Govt. Pleader



ORDER

( MADE BY P. JYOTHIMANI, J. )

When it was brought to the notice of this Court that the subordinate Criminal Courts are facing severe hardships to find sufficient accommodation for keeping the case properties in criminal cases and in most of the cases, the valuable properties, like cycles, two wheelers are kept outside the Court buildings, till disposed of by public auction or return of properties in favour of the parties, which takes normally very long period, which also results to heavy loss to the State Exchequer. The trial Courts disposed of the case properties under Section 452 Cr.P.C. either,

a) by destruction; or  
b) by confiscation; or  
c) by delivery of the property to any one of the parties entitled hereto,

and the Courts are facing difficulties in respect of the later two modes of disposal, viz., by confiscation and delivery of properties to the persons concerned. The confiscation requires the disposal of the properties by sale, by auction and in cases where the properties are directed to be handed over to particular parties, the same is delayed due to various reasons including that the parties do not normally approach for the purpose of taking delivery. Even in respect of sale and by public auction in respect of confiscated goods, lot of difficulties are experienced in fixing the upset price for want of cooperation from the authorities. With the result, the Ministerial Staff as well as the Judicial Officers are to keep accounts in respect of those properties and protect the same years together for being letting them to be destroyed by natural calamities. As per Section 458 of Cr.P.C. and 297-A of Criminal Rules of Practice dealing with the disposal of unclaimed properties, ultimately, the properties are vested with the State Government for disposal and it is for the State Government to sell the same and deal with the sale proceeds. There are no powers given to the subordinate Criminal Courts to sell and deposit the sale proceeds in the account of Government. Even in respect of confiscated properties by judicial order made under Section 452 of Cr.P.C. the courts are not empowered to sell the properties in auction and ultimately the courts power is only to transfer ownership of the properties in favour of the Government. The said aspect was brought to the notice of the Hon'ble Chief Justice and the same was treated as suo motu writ petition, accordingly, the matter is taken up today.

2. The learned Government Pleader, Mr. Raja Kalifulla, takes notices for respondents 5 and 6.

3. Considering the above said factual and legal aspects and after hearing the arguments of the learned Government Pleader, respondents 1 to 4, who are the District Judges of all Districts, the Principal Judge, City Civil Court, Chennai, the Chief Metropolitan Magistrate, Egmore, Chennai and the Chief Judicial Magistrate of all

Districts are directed to hand over the properties either confiscated or directed to be returned to the parties concerned, which remain unclaimed by the concerned parties to respondents 5 and 6 or any other authorities appointed by the 5<sup>th</sup> respondent to deal with such properties, in accordance with law. The 5<sup>th</sup> and 6<sup>th</sup> respondents are directed to complete the above said process of receiving goods expeditiously. ✓

The writ petition stands disposed of in the above terms. No costs.

Sd/  
Asst. Registrar

/true copy/

Sub Asst. Registrar

kh

To

1. The District Judge  
All the Districts.
  2. The Principal Judge  
City Civil Court, Chennai.
  3. The Chief Metropolitan Magistrate  
Egmore, Chennai 600 008.
  4. The Chief Judicial Magistrate  
All the Districts.
  5. The Principal Secretary to Government  
State of Tamil Nadu  
Home Department, Secretariat  
Fort St. George, Chennai 9.
  6. The District Collector  
All the Districts.
- 1 cc To The Government Pleader, SR. 34554.

W.P.No.22249 of 2007

GK(CO)  
RVL 16.07.2007

3) W.P.No.22249 of 2007

**The Honourable the Chief Justice  
and  
Prabha Sridevan,J.**

On 02-07-2007, an order was passed directing the respondents 1 to 4 to handover the properties either confiscated or directed to be returned to the parties, which remained unclaimed by the concerned parties to respondents 5 and 6 or any other authorities appointed by the 5<sup>th</sup> respondent to deal with such properties, in accordance with law. By the same order, the fifth and sixth respondents were also directed to complete the above said process of receiving goods expeditiously.

2. The learned Principal District and Sessions Judge, Erode, in the mean time, by his proceedings D.No.157/2007 dated 25-09-2007 requested the District Collector to take possession of the case properties confiscated to the State and to acknowledge the same. In response to this, the District Collector had by his letter reference No.46767/2007 C1 dated 26-09-2007 responded that no administrative instructions have been issued with reference to the dealing of confiscated and unclaimed properties by the Government and therefore, the District Collector requested the learned Principal District Judge to hold over the transfer of case properties until such an order is received from the Government.

3. The Government then passed the Government Order, G.O.Ms.No.1509, Home (Court I) Department dated 25-10-2007 by which an

expert committee and an auctioning and formation committee were constituted and procedure was prescribed for confiscated vehicles. Further, while laying down the procedure in Paragraph No.5 of the said G.O., it is laid down interalia at subparagraph No.7 as follows:

"The Judicial authorities concerned shall handover the vehicles to the bidders as per release orders issued by the concerned Unit officers of Motor Vehicles Maintenance Department."

4. This is not in consonance with the order of this Court dated 02-07-2007, by which the fifth and sixth respondents were directed to complete the process of dealing with the case properties expeditiously. Thereafter, the learned Principal District Judge, Erode had brought to the notice of the Registrar General, the difficulty in retaining the confiscated vehicles in court custody until the entire confiscation process is completed. The procedure set down in the above Government Order is quite elaborate, and if the judicial authorities have to wait for the release orders, then the purpose of the order passed in this writ petition on 02-07-2007 would be stultified. In view of the predicament in which the District Judges are placed, the matter has been listed.

5. In these circumstances, it is directed as follows:

*On receipt of the communication from the District Judges who are the respondents 1 to 4 requesting the respective District Collector to take charge of*

the confiscated properties, the concerned District Collectors shall immediately take charge of the confiscated properties and remove them from the Court campus. Thereafter, the District Collectors shall, follow the procedure laid down in G.O.Ms. No.1509 dated 25-10-2007 with regard to auction and disposal.

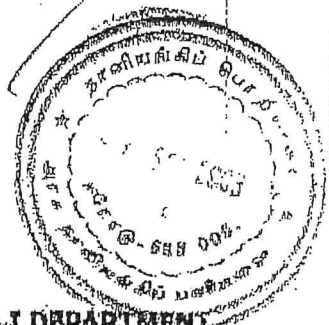
(A.P.S.,C.J.) (P.S.D.,J.)  
17-03-2008

glp

v. mth 26/3/08  
Asst. Registrar  
Co

- To
1. The District Judge, All the Districts.
  2. The Principal Judge, City Civil Court, Chennai.
  3. The Chief Metropolitan Magistrate, Egmore, Chennai - 600 008.
  4. The Chief Judicial Magistrate, All the Districts
  5. The Principal Secretary to the Government of Tamil Nadu, Home Department, Fort St. George, Chennai - 600 009.
  6. The District Collector, All the Districts
  - + 1 cc to the Govt - Pleader, SR no. 14969.

P1  
23/3/08  
23/3/08



*M. S. S. S.*  
*1608*

*JL*

**Immediate**

**HOME (COURTS) DEPARTMENT,  
SECRETARIAT, CHENNAI - 600 009.**

*3/10*

**Letter No. 22249/Crs. I/2007 - 1 Dated: 15-05-2008**



From  
T. S. Malathi, I.A.S.,  
Secretary to Government.

- To
- All District Collectors
  - All Superintendents of Police
  - The Registrar General, High Court, Chennai.104
  - The Director General of Police, Chennai.4
  - The Inspector General of Police (Enforcement), Chennai.4
  - The Inspector General of Police (Food Cell), Chennai.4
  - The Commissioner of Police, Chennai, Madurai, Trichy,  
Salem, Coimbatore, Tirunelveli
  - The Deputy Commissioner (Food Cell), Chennai
  - All Principal District Judges in Districts
  - The Principal Judge, City Civil Court, Chennai.104
  - The Chief Metropolitan Magistrate, Egmore, Chennai.8
  - The Transport Commissioner, Chennai.5
  - The Managing Director, Tamil Nadu State Transport Corporation, Chennai.2
  - The Director, Motor Vehicles Maintenance Department, Chennai.83

Sir,

Sub: W.P.No.22249/2007 - High Court, Madras - Filed by the Registrar General, High Court, Madras - Orders of High Court - Regarding.

- Ref: 1) G.O.Ms.No.1809, Home, Dated: 25.10.2007. ....  
2) Order of High Court in W.P.No.22249/2007 (Suo motu), Dated: 7.3.2008

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Kindly refer to the references cited.

2. I am directed to state that orders were issued in the G.O. 1st cited to constitute an Expert Committee for inspection and valuation of confiscated vehicles and Auctioning and Confirmation with regard to the auctioning and disposal of confiscated vehicles.

3. Now the Hon'ble High Court in its order dated 17.3.2008 (suo motu) has directed as follows:-

"On receipt of the communication from the District Judges who are the respondents 1 to 4 (viz.) 1) The District Judges in all Districts 2) Principal Judge, City Civil Court, Chennai 3) Chief Metropolitan Magistrate, Egmore, Chennai 8 4) Chief Judicial Magistrate Court of all districts requesting the respective District Collector to take charge of the confiscated properties, the concerned District Collector shall immediately take charge of the confiscated properties and remove them from the Court campus. Thereafter, the District Collectors shall follow the procedure laid down in G.O.Ms.No.1509, Dated: 25.10.2007 with regard to auction and disposal".

4. Pursuant to the above orders of High Court, I am directed to request you to take charge of the confiscated properties and remove them from the Court campus and thereafter to follow the procedures laid down in G.O.Ms.No. 1509, Home, Dated: 25.10.2007.

Yours faithfully,

*[Signature]*  
for Secretary to Government

Copy to:-

The Co-Operation, Food and Consumer Protection department, Chennai.9  
The Transport Department, Chennai.9  
The Finance Department, Chennai.9.

Honoured Sirship,

submitted to the Hon'ble Thiru. Justice.S. Nagamuthu, Judge

of Hon'ble High Court, Madras for favour of kind information

*[Signature]*  
(N.SATHISHKUMAR)  
PRINCIPAL DISTRICT JUDGE,  
ERODE.