

**HIGH COURT OF TRIPURA
AGARTALA**

MFA No.03 of 2024

Daffodils Associate Ltd.,

Registered Office- GS Road, Ulubari,
Kamrup, Assam, Guwahati-781007
Local Office- At Dharmanagar under Dharmanagar P.S.,
North Tripura District
(represented by its Managing Director and Others) namely,
Md. Abu Sadeque Istiaque Ahmed Choudhury,
S/O Late Abdul Jalil Choudhury,
Managing Director of M/S Daffodils Associate Ltd.

....Appellant OP.

Versus

Deputy Collector and Magistrate,

Dharmanagar Sub-division,
P.S.-Dharmanagar, North Tripura

.....Respondent-applicant.

IN

CIVIL MISC. CASE NO.21 of 2017

Deputy Collector and Magistrate (Sri Dibyendu Das)

.....Petitioner

Versus

Daffodils Associate Ltd.

(represented by its Managing Director and other Directors)

.....Opposite Party (OP).

For Petitioner (s)	: Mr. Prasanta Kumar Pal, Adv. Mr. Abhinandan Pal, Adv.
For Respondent(s)	: Mr. Saktimoy Chakraborty, Adv. General Ms. Pinki Chakraborty, Adv. Mr. Karnajit De, Addl. G.A.

Date of Hearing
and delivery of
Judgment and Order : 19.09.2025
Date of delivery of
Judgment and Order : **25.09.2025**
Whether fit for
Reporting : **NO**

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

This appeal under Section 11 of the Tripura Protection of Interest of Depositors (In Financial Establishments) Act, 2000 is preferred challenging the judgment and order dated 19.06.2024 delivered by Learned Special Judge (TPID), North Tripura, Dharmanagar in case No.Civil Misc.21 of 2017.

02. Heard Learned Counsel, Mr. P. K. Pal along with Learned Counsel, Mr. A. Pal appearing on behalf of the appellant OP and also heard Learned Advocate General, Mr. S. Chakraborty assisted by Learned Counsel, Ms. P. Chakraborty and Learned Addl. G.A., Mr. K. De appearing on behalf of the State-respondent.

03. Taking part in the hearing, Learned Counsel, Mr. P.K. Pal for the appellant OP drawn the attention of the Court that the judgment delivered by Learned Special Judge, North Tripura, Dharmanagar suffers from infirmities for which the interference of the Court is required. Learned Counsel for the appellant also submitted that against the appellant still there is a criminal case pending under Jirania Police Station which is pending for disposal. But the Learned Court of Special Judge without appreciating the said fact delivered the judgment for which the appellant has become prejudiced.

04. It was further submitted by Learned Counsel for the appellant that Learned Trial Court framed Issue Nos.(ii), (iv), (v), (vi) and (vii) but at the time of delivery of judgment no decision was given by Learned Trial Court in respect of Issue No.(v). Learned Counsel also drawn the attention of the Court that Learned Special Judge, (TPID), North Tripura, Dharmanagar at the time of disposal of the case did not consider the provision of Section 7(6) of TPID Act, 2000 and in support of his contention Learned Counsel for the appellant referred one judgment of the Hon'ble Supreme Court of India in ***M.S. Sheriff and Ors. Vs. The State of Madras and Ors.*** reported in **(1954) 1 SCC 524** wherein in Para Nos.11, 12 and 13, the Hon'ble Apex Court observed as under:-

"11. We were informed at the hearing that two further sets of proceedings arising out of the same facts are now pending against the appellant. One is two civil suits for damages for wrongful confinement. The other is two criminal prosecutions under Section 344 IPC for wrongful confinement, one against each Sub-Inspector. It was said that the simultaneous prosecution of these matters will embarrass the accused. But after the hearing of the appeal we received information that the two criminal prosecutions have been closed with liberty to file fresh complaints when the papers are ready, as the High Court records were not available on the application of the accused. As these prosecutions are not pending at the moment, the objection regarding them does not arise but we can see that the simultaneous prosecution of the present criminal proceedings out of which this appeal arises and the civil suits will embarrass the accused. We have therefore to determine which should be stayed.

12. As between the civil and the criminal proceedings we are of the opinion that the criminal matters should be given precedence. There is some difference of opinion in the High Courts of India on this point. No hard-and-fast rule can be laid down but we do not consider that the possibility of conflicting decisions in the civil and criminal courts is a relevant consideration. The law envisages such an

eventuality when it expressly refrains from making the decision of one court binding on the other, or even relevant, except for certain limited purposes, such as sentence or damages. The only relevant consideration here is the likelihood of embarrassment.

13. Another factor which weighs with us is that a civil suit often drags on for years and it is undesirable that a criminal prosecution should wait till everybody concerned has forgotten all about the crime. The public interests demand that criminal justice should be swift and sure; that the guilty should be punished while the events are still fresh in the public mind and that the innocent should be absolved as early as is consistent with a fair and impartial trial. Another reason is that it is undesirable to let things slide till memories have grown too dim to trust. This, however, is not a hard-and-fast rule. Special considerations obtaining in any particular case might make some other course more expedient and just. For example, the civil case or the other criminal proceeding may be so near its end as to make it inexpedient to stay it in order to give precedence to a prosecution ordered under Section 476. But in this case we are of the view that the civil suits should be stayed till the criminal proceedings have finished."

Referring the same citation, Learned Counsel drawn the attention of the Court that in absence of evidence on record, Learned Special Court allowed the claim of the respondent in absence of proper evidence on record and since the criminal proceeding is still pending so there was no scope on the part of Learned Special Judge to dispose of the case.

05. It was further submitted that it is not established that the appellant is a chit fund company and property of the appellant was acquired on the basis of money collected from the consumers. In such a situation, in absence of proper evidence on record there was no scope to pass any order in favour of the respondent and urged for dismissal of the judgment delivered by Learned Court of Special Judge with costs.

06. On the other hand, Learned Advocate General appearing on behalf of the State drawn the attention of the Court that this appeal is not maintainable and there is no infirmity in the judgment delivered by Learned Special Judge and furthermore, the appellant both by oral/documentary evidence on record could not satisfy the Court that the appellant Company does not come under the purview of TPID Act and as such the Learned Special Judge rightly passed order allowing the claim of the respondent and furthermore since the appellant is a chit fund company so there is no merit in the appeal filed by the appellant.

07. Learned Advocate General also drawn the attention of the Court referring a judgment of Division Bench of this High Court in WP(Crl) No.3 of 2014 wherein this High Court hence disposed of the writ petition with certain directions to the State-authorities regarding disbursement of the amount realized to the consumers/customers after disposal of the properties belonging to the chit fund companies. Finally Learned Advocate General urged for dismissal of this appeal.

08. Now before coming to the conclusion let us discuss about the subject matter of the appeal filed by the appellant. The respondent applicant Deputy Collector and Magistrate under the control of DM & Collector, North Tripura, Dharmanagar submitted one application under Section 5(3) of TPID Act praying for making the order of attachment of

property of the present appellant and also to allow the prayer of the petitioner appellant herein for disposal of the assets mentioned in the schedule of the application for equitable distribution to the creditors/depositors. The crux issue leading to the application was that a criminal case under Jirania PS Case No.77/2012 under Section 420/406/120(B) of IPC and also under relevant Section of TPID Act, 2000 was registered against the said appellant company. The Superintendent of Police, CID Tripura in reference to the aforesaid case Jirania PS reported to D.M & Collector, North Tripura, Dharmanagar to take proper measures for attachment of the immoveable property of the said company located in the North Tripura District. The details of the properties mentioned herein as under:-

Name of T.K	Name of Revenue Mouja	Khatian No.	Hal plot No.	Class of land	Area (in acre)
1	2	3	4	5	6
Uptakhali	Radhapur	976	1390	Bhiti(nal)	0.16
			1391	Nal	0.15
			1392	Chara	0.53
			1393	Dhepa(nal)	0.56
			1394/3269	Nal	0.23
			Total		1.63

09. After that D.M & Collector on receipt of the information made an inquiry and came to know that the appellant company has got some property within Dharmanagar

Sub-division as mentioned above. Immediately D.M & Collector, North Tripura send a proposal to the Director, Institution of Finance, Agartala for attachment of the property. After that the Government of Tripura under the relevant provision of TPID Act issued a notification dated 19.07.2017 and attached the movable and immovable properties of the said company all over the State of Tripura including the aforesaid property as reflected above which was published in the Extra-ordinary issue of the Tripura Gazette dated 24.07.2017.

10. The present respondent applicant made prayer to the Court of Learned Special Judge for making the attachment absolute and permission for disposal of the asset for the purpose of equitable distribution to the creditors/depositors. Before the Learned Special Court notice was issued upon the OP. The OP appeared and contested the case by filing objection denying the claim of the State-respondent and contended that the proceeding was not maintainable. It was further submitted that the investigation of the criminal case was still under progress and in view of the pendency of criminal proceeding the case before the Learned Special Judge was not maintainable.

11. Upon the pleadings of the parties, Learned Special Court framed the following issues :-

(i) Whether the suit is maintainable in its present forms?

(ii) Whether the petitioner is entitled to get an order confirming the attachment order vide notification No.F.12(16)(61)-DIF/DAFFODILS/2016/2051-53 dated 19-07-2017 and for permission to sale the attached property or any part thereof as per section 5(3) of the Tripura Protection of interests of Depositors(In Financial Establishments) Act, 2000, along with amendment Act, 2011?

(iii) Whether the suit/application is barred by limitation?

(iv) Whether the Opposite Party Company is a financial company?

(v) Whether the trial in connection with Jirania PS Case No.77/2012 is still pending?

(vi) What other relief/relieves the petitioner is entitled to?

To substantiate the issues the respondent petitioner examined as PW-1 and relied upon some documents which were marked as Exhibits.

12. On the other hand, the appellant as OP No.1 adduced himself as OPW-1 and submitted some documents which were marked as Exhibits. Now for the sake of convenience, I would like to refer herein below the names of the witnesses of both the parties as well as the exhibited documents which are as follows:-

Name of witnesses:-

PW-1 – Sri Dibyendu Das, D.M. & Collector, North Tripura, Dharmanagar

OPW-1 - Md. Abu Sadeque Ishtiaque Ahmed Choudhury, Managing Director, M/S. Daffodils Associate Ltd.

Name of Exhibits:-

Exhibit-1(i) & 1(ii)- Copy of Extraordinary issue of Tripura Gazette dated 24.07.2017 in two sheets.

Exhibit-2 – Certified copy of printed FIR of Jirania PS case No.2012 JRN 77 dated 24.09.2022.

Exhibit.3(i) to 3(xii)- Certified copy of the complaint petition filed by Sri Prabir Ch. Datta.

Exhibit.4(i) to 4(iii)- Certified copy of the letter dated 22.04.2017 to DM & Collector, North Tripura by SP (CID).

Exhibit-5 – Letter dated 21-06-2017 by D.M & Collector, North Tripura.

Exhibit-6 (i) to 6(iv) –Letter of SDM, Dharmanagar dated 09.01.2014.

Exhibit-7(i) to 7(ii)- Letter dated 04.08.2017 of D.M & Collector, North Tripura.

Exhibit.8(i) & 8(ii)-Certified copy of khatian no.976 of Mouja & Teheshil-Radhapur.

Exhibit.9- Letter dated 20-09-2017 of SDM, Dharmanagar.

Exhibit.10- Copy of newspaper Jugashankha dated 18.09.2019 of Silchar.

13. On the other hand, OP No.1 adduced himself as witness and submitted his examination-in-chief by affidavit. He also adduced certain documents which were marked as Exhibits as follows:-

Exhibit.A- Certified copy of order dated 03-02-2024 by Ld. Special Judge CBI, Agartala in case no.Special TPID 10 of 2018.

Exhibit.B- Certified copy of order dated 04-03-2024 by Ld. Special Judge CBI, Agartala in case no.Special TPID 10 of 2018.

Exhibit.C- Certified copy of the report submitted by CBI.

14. Finally, on conclusion of the proceeding Learned Special Judge (TPID), North Tripura, Dharmanagar allowed the claim petition and disposed of the same by the judgment and order dated 19.06.2024 the operative portion of the order runs as follows:-

ORDER

"33. In the result the order of attachment issued vide notification No.F.12(16)(61)-DIF/DAFFODILS/2016/2051-53 dated 19-07-2017 of the Government of Tripura is hereby made absolute in respect to property in question.

34. The petitioner is hereby allowed to go for disposal of such property and assets for equitable distribution of the same to the depositors from whom

the Opposite Parties or their Financial Institution had collected such money and failed to repay the same on maturity as per agreed terms and conditions, however subject to the following conditions-

(i) in case of sale of immovable property, same shall be done by a public auction fixing some base value of such properties and also after giving wide publicity of such auction;

(ii) before going for such sale or other form of disposal, the petitioner shall first ascertain the total dues payable to the depositors, as far as possible and will try to return the money of depositors from the cash amount lying under attachment first.

(iii) after the dues payable to the depositors are satisfied and after meeting all the ancillary expenses already incurred or to be incurred for the entire process, the rest undisposed property shall automatically be released from such attachment and be returned to the person(s)/institutions(s) entitled to it and for this purpose, the disposal by way of public auction shall be taken up phase wise and based on the actual need/requirement.

(iv) needless to say, proper accounting should be maintained for entire process.

With the above said directions, the Case stands disposed of on contest.

Make necessary entry in the Trial Register and CIS."

Challenging the judgment/order the appellant company has preferred this appeal.

15. I have heard detailed argument of both the sides as indicated above and perused the record of the Learned Court below. As already stated to determine the case Learned Special Court framed some issues and decided issue nos.(i) and (iii) in favour of the respondent-applicant. Although the issue of delay was raised before the Court but the Court of Learned Special Judge by order dated 16.12.2019 in connection with Civil Misc.21 of 2017 allowed the delay in lodging the application and challenging that order the appellant company also

preferred CRP before this High Court and this High Court by order dated 02.02.2021 in connection with CRP 8 of 2020 placed to uphold the order of the Learned Special Judge.

16. At the time of hearing, nothing could be submitted by the appellant in respect of decision of the Learned Special Court on those issues. Now regarding issue nos.(ii), (iv), (v) and (vi) Learned Counsel for the appellant at the time of hearing, submitted that although issue no.(v) was framed by Learned Special Court but at the time of delivery of judgment no decision was taken in this regard by the Learned Special Judge. However, on perusal of the said judgment of the Learned Special Judge it appears that Learned Special Judge at the time of determination of issue nos.(ii), (iv), (v) and (vi) in Para No.24 opined that the property description was mentioned in the application by the respondent applicant which was within the jurisdiction of the Learned Trial Court and the said property was purchased by the company i.e. the appellant herein was not in dispute. It was also not disputed that the said company after collecting money from the depositors purchased the property left those properties and the State-Government under TPID Act is empowered to attach the property of such financial institutions which commenced default in repayment of money to the depositors by applying fraud.

It was also observed that the State was empowered to keep such property attached subject to the approval of the

designated Court. The OP took the plea that Jirania PS Case No.77 of 2012 under Section 420/406/120(B) of IPC was pending which was being investigated by CBI. On the ground the pendency of criminal proceeding the appellant challenged the maintainability of the proceeding before the Learned Special Judge. It was further submitted that the appellant as OP to substantiate their claim relied upon Exhibits-A, B, C and those documents were relating to CBI criminal case.

It was the observation of the Learned Trial Court that the property was purchased by the company using the deposits of the consumers which the company collected from different people on assurance of higher returns which they ultimately failed to fulfill and the present appellant as OP also failed to adduce any document to substantiate that the property in dispute was legally procured by them. It was also observation of the Learned Special Judge that the result of the investigation in criminal case is no bar in civil proceeding because civil proceeding and criminal case are based on evidence on record. Even if it is found that the accused is acquitted in criminal case still it cannot absolved him from the civil liability. The appellant before the Learned Special Judge also could not produce any proof and document to substantiate that they were given due permission by the State to run their business. The appellant also submitted that SEBI and RBI gave clearance to the company but nothing was produced before the

Learned Special Court in this regard. So, finally after discussions Learned Special Judge decided all the issues against the present appellant and allowed the application filed by the respondent applicant. The citations as referred by Learned Counsel for the present appellant does not fit with the present case as such the same cannot be applied in this case. Even the judgment of the Division Bench of this High Court relied upon by Learned Advocate General on behalf of the respondent also in toto does not match the respondents case. However, certain direction is given in the said judgment but here in the case at hand Learned Special Judge at the time of delivery of the judgment has given specific findings and before this Court also Learned Advocate General did not pray for any separate observation for modifying the earlier order on behalf of the said respondent and as such, in view of the observation of the Division Bench of this High Court, no separate order is passed.

17. In the result, the appeal filed by the present appellant stands dismissed being devoid of merit. The judgment of the Learned Special Judge (TPID), North Tripura, Dharmanagar dated 19.06.2024 in connection with Civil Misc. No.21 of 2017 is hereby upheld and the same is affirmed accordingly.

With this observation this appeal stands disposed of.

Send down the record to the Learned Special Judge (TPID), North Tripura, Dharmanagar along with a copy of this Judgment.

Pending application(s), if any, also stands disposed of.

JUDGE



Amrita

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