

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.19057 of 2016

and

W.M.P.Nos.16607 to 16609 of 2016

and

W.M.P.No.23885 of 2016

1.M.Prem Kumar

2.U.P.Manoj

... Petitioners

Vs.

1.The Deputy Superintendent of Police,
Economic Offences Wing-II,
First Floor,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai-600 032.

2.R.Dhakshanamurthy

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records of the respondent dated 11.04.2016 and to quash the same.

For Petitioners : Mr.V.Subramanian for Mr. R. Gopinath
for M/s. Mc Gan Law Firm

For respondents : Mr.R.Rajeswaran, Spl. PP (For R1)

ORDER

This writ petition has been filed by the petitioners praying to quash the impugned Notice dated 11.04.2016 issued by the 1st respondent directing the petitioners to vacate the premises occupied by them viz., Door No.28A, third floor, Halls Road, Kilpauk Garden, Chennai-10.

2.It is stated by the petitioners that the 1st petitioner is the tenant of the property bearing Door No.28,Third Floor, Halls Raod, Kilpauk Garden, Chennai and one D.Vasthala is the owner. The 2nd petitioner is the tenant of the property bearing Door No.29A, Third Floor, Halls Road, Kilpauk Garden, Chennai and the 2nd respondent-Dhakshanamurthy is the owner. It is further stated by the petitioners that the said D.Vasthala entered into an Hire Purchase Agreement with M/s.Integrated Finance Co.Ltd,

for a sum of Rs.65,09,460/- and the 2nd respondent herein-Dhakshanamurthy stood as a guarantor for the said loan amount. While so, a case has been registered in Cr.No.5/2012 under Section 420, 120(b) IPC and Section 5 of Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act (in short 'TNPID Act') by the Deputy Superintendent of Police, Economic Offences Wing-II, Chennai (1st respondent herein) against the said M/s.Integrated Finance Company Limited and its Directors, on the basis of the complaint given by a depositor viz., Mrs.Geetha, on 26.03.2012. Since the 2nd petitioner's owner/2nd respondent stood as a guarantor for the money borrowed by the said Vasthala from the M/s.Integrated Finance Company Limited, pursuant to the registration of the FIR against the M/s.Integrated Finance Company Limited, the 1st respondent herein has issued the impugned notice directing the petitioners, who are the tenants, to vacate the premises. Hence, the petitioners have come forward with the present writ petition for the relief as stated supra.

3.The learned counsel for the petitioners submitted that the 1st respondent has no authority to direct the petitioners/tenants to vacate the premises under TNPID Act. The only competent authority appointed by the Government viz., The District Revenue Officer, Chennai District, alone vested with the power to attach the property and to bring the property for sale under the orders of the Special Court. Thus, the learned counsel for the petitioners sought for quashing the impugned notice issued by the 1st respondent.

4.Heard the learned Special Public Prosecutor appearing for the 1st respondent also.

5.From a perusal of the materials available on record, I find that the petitioners are only the tenants of the subject premises. The 1st petitioner's owner viz., Vasthala entered into an Hire Purchase Agreement with M/s.Integrated Finance Company Limited and the 2nd petitioner's owner viz., 2nd respondent herein stood as a guarantor for the money borrowed by the said Vasthala from M/s.Integrated Finance Company Limited. While so, on the basis of a complaint given by a deposit, a case has been registered by the 1st respondent against the said M/s.Integrated Finance Company Limited and its Directors, for the alleged offences under Section 420, 120(b) IPC and Section 5 of TNPID Act. Pursuant to the registration of the complaint, the 1st respondent has issued the impugned notice directing the petitioners/tenants to vacate the premises. As contended by the learned counsel for the petitioners, as per Sections 3 & 4 of the TNPID Act, only the competent authority appointed by the Government viz., the District Revenue Officer alone is empowered

to attach the property and to bring the same for sale, by obtaining necessary orders from the Court. The 1st respondent has no authority to direct the petitioners/tenants to vacate the premises. So far as the criminal case is concerned, the 1st respondent can investigate the case and file the chargesheet before the concerned Court. Therefore, the impugned notice issued by the 1st respondent directing the petitioners/tenants to vacate the premises, is legally not sustainable and the same is liable to be quashed.

6.Hence, the writ petition is allowed and the impugned Notice is quashed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Asst. Registrar.

/true copy/

Sub Asst. Registrar.

ssv

To

The Deputy Superintendent of Police,
Economic Offences Wing-II,
First Floor,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai-600 032.

2 The Public Prosecutor, High Court, Madras

+1 CC to M/s. Mc Gan Law Firm, Advocate, Sr.48815

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RJ (CO)

MD : 14/09/2016

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