



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:29.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition(MD)No.19031 of 2016

and

WMP(MD)No.13752 of 2016

N.C.Periyasamy

... Petitioner

Vs.

1.The Principal Secretary to Government,
Government of Tamilnadu,
Home (Police XIX) Department,
Fort St. George,
Chennai -9.

2.The Competent Authority and
District Revenue Officer,
Karur,
Karur District.

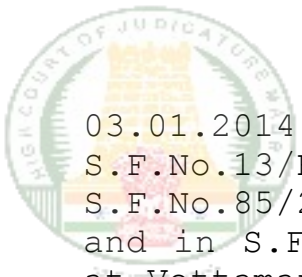
3.The District Registrar,
Karur District,
Karur.

4.The Sub-Registrar,
Velayuthampalayam,
Karur District.

5.The Inspector of Police,
Economic Offences Wing - II,
Karur,
Karur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent in G.O.Ms.No.16 Home (Police XIX) Department, dated 03.01.2014 and quash the same and consequently direct the respondents 3 and 4 to delete or to make necessary entries in the registration records including encumbrance certificate by removing the entry of attachment made on the basis of G.O.Ms.No.16 Home (Police XIX) Department, dated



03.01.2014 in respect of petitioner's properties comprised in S.F.No.13/B10 measuring to an extent of 0.25.5 acres, in S.F.No.85/2 measuring to an extent of 1.28 acres and in S.F.No.76/B measuring to an extent of 0.81 acres situated at Vettamangalam Village, Karur District.

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For Petitioner : Mr.R.Mathiyalagan

For Respondents : Mr.V.Muruganandham,
Additional Government Pleader

ORDER

Challenging the Government Order issued by the first respondent passing an interim order of attachment of some of the petitioner's properties under Section 3 of the Tamil Nadu Protection of Interests of Depositors(In Financial Establishments) Act, 1997(hereinafter called as 'the Act'), the present Writ Petition has been filed.

2. According to the petitioner, he is one of the Partners of the Financial Establishment, by name "Thiruvarangam Finance Corporation" at Karur District. The said Financial Establishment collected deposits from 98 depositors, since they were default in re-payment, proceedings under Section 3 of the Act, was initiated based on the complaint given by one of the depositors and a criminal case was also registered on the file of the fifth respondent in Crime No.3 of 2004 for the offence under Sections 406 and 420 of I.P.C and Section 5 of the Act. Subsequently, the fifth respondent conducted enquiry and he has also filed a final report before the Court concerned and the fifth respondent has also made a recommendation to the first respondent for attachment of some of the petitioner's properties.

3.It is further stated by the petitioner that some of the accused namely A4 and A5 were discharged from the charges and based on the recommendation of the fifth respondent, the first respondent has also passed the impugned order under Section 3 of the Act, ordering interim attachment of the petitioner's property.

4. According to the petitioner, thereafter, during trial, the petitioner and other partners settled the entire deposited amount to all the 98 depositors and based on that, the trial Court also acquitted all the three accused on 04.06.2016. Against the order of acquittal, there is no appeal is filed therefore, the same has become final. Since all the depositors were settled with the amount along with interest and the petitioner was also acquitted from all the charges, the petitioner approached the first respondent to cancel the order of interim attachment. But,



no order has been passed. Hence, he has filed this Writ Petition.

5. The learned counsel appearing for the petitioner would submit that as on today, all the depositors were fully paid and they were also given evidence before the trial Court. Based on their evidence, the trial Court has also acquitted the petitioner. Therefore, as on today, there is no arrears/no due, to any of the depositors. Apart from that, even though the Government has passed an order as early as on 03.01.2014, the competent Authority namely the second respondent did not take any steps to make the interim order of attachment, absolute. In such circumstances, the interim order of attachment should necessarily, to be set aside.

6. The second respondent filed a counter affidavit admitting all the above factual position and in paragraph No.6 of the counter affidavit, it has been stated that pending trial, all the 98 depositors were settled with the amount along with interest. It is further stated in the counter affidavit that after getting acquittal, the petitioner so far did not approach the the competent authority requesting to release the order of attachment. Apart from that, if the order of interim attachment is released, then, if any depositors lodges any complaint against the petitioner in future, they will be put to irreparable loss.

7.The fifth respondent has filed a counter affidavit re-iterating the averments made in the counter affidavit filed by the second respondent.

8.Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

9. It is admitted that totally 98 depositors, and in the counter affidavit filed by the second and fifth respondents also, it is admitted that there are 98 depositors and all the 98 depositors were also settled with the deposited amount along with interest and before the trial Court, most of the depositors and the legal heirs of the deceased depositors were examined, wherein all the depositors have given evidence that they have received all the deposited amount along with interest. Only based on the evidence, the trial Court acquitted the accused.

10. In view of the above, it is clear that as on today, there is no liability on the part of the petitioner. Apart from that, even though the Government passed an interim order of attachment, as early as on 03.01.2014, the petitioner did not approach the competent authority under Section 4(3) of the Act, making the interim attachment order, absolute and the second respondent has no power to cancel the ad-interim attachment.

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11. In such circumstances, there is no useful purpose in



keeping the attachment of the petitioner's property. Hence, the order of interim attachment passed by the first respondent is liable to be set side.

12. In the result, this Writ Petition is allowed and the order of the first respondent, dated 03.01.2014, is set aside. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Deputy Registrar(Accounts)

/True copy/

Sub Assistant Registrar

To

1.The Principal Secretary to Government,
Government of Tamilnadu,
Home (Police XIX) Department,
Fort St. George, Chennai -9.

2.The Competent Authority and
District Revenue Officer,
Karur, Karur District.

3.The District Registrar,
Karur District, Karur.

4.The Sub-Registrar,
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5.The Inspector of Police,
Economic Offences Wing - II,
Karur, Karur District.

+1 cc to M/s.R.Mathiyalagan, Advocate in SR.No.73928
+1 cc to The Special Government Pleader in SR.No.74004

pm

CSL/EM-MPA/28.12.2016 :4P/8C

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