



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 11.07.2016

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P(MD)No.16607 OF 2013 & M.P(MD)No.1 of 2013

T.Pappa

..Petitioner

.vs.

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

2.The Competent Authority -cum-
District Revenue Officer,
Karur District, Karur.

3.The Inspector of Police,
Economic Offences Wing-II,
Erode.

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

..Respondents.

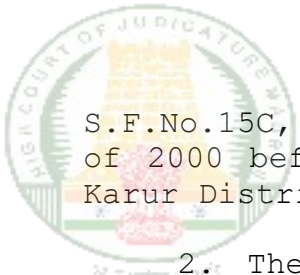
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to remove the attachment made on 28.04.2003 in pursuance of the G.O.No.356 issued by the first and second respondents under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997 in respect of the petitioner's land in S.F.No.15C, 16/2 to an extent of 3108 Sq.ft registered as Document No.354 of 2000 before the fourth respondent located at Mookanakurichi Village, Karur District and pass further orders as this Court may deem fit and proper.

For Petitioner :Mr.N.Shanmugaselvam

For Respondents :Mr.D.Muruganandam
Addl.Govt.Pleader.

ORDER

The petitioner has filed this Writ Petition for a Writ of Mandamus to direct the respondents to remove the attachment made on 28.04.2003 in pursuance of the G.O.No.356 issued by the first and second respondents under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997 in respect of the petitioner's land in



S.F.No.15C, 16/2 to an extent of 3108 Sq.ft registered as Document No.354 of 2000 before the fourth respondent located at Mookanakurichi Village, Karur District.

2. The case of the petitioner is that she is the owner of the property in Survey Nos.15C, 16/2 to an extent of 3108 Sq.ft (vacant land) by virtue of a sale deed in her favour. The grievance of the petitioner is that the respondents 1 and 2 at the instance of the third respondent, has passed an order attaching the immovable property belonged to the petitioner by an order dated 28.04.2003, vide, G.O.Ms.No.356, in exercise of power under Section 3 of TANPID Act, 1997.

3. It is the further case of the petitioner that in all criminal cases filed against different firms under the provisions of TANPID Act, 1997, she is discharged from the criminal cases by different orders passed by the Special Court established under the TANPID Act. It is her further case that the property of the petitioner cannot be attached.

4. With regard to the first submission that the petitioner is discharged from the case pending in C.C.No73 of 2008, the order produced by her, shows that the discharge petition filed before the sub-Court was dismissed with respect to the petitioners 1 to 10 therein. The petitioner herein is the 9th petitioner in the said discharge petition. However, it is pointed out that there are some discrepancies in the papers filed before this Court and typed set and original records available with the learned Counsel for the petitioner. Be that as it may, the contention of the petitioner has no legal basis.

5. It is necessary to refer to the provisions of TANPID Act for convenience. Section 3 of the TANPID Act, reads as follows:-

"3. Attachment of properties on default of return of deposits:- Notwithstanding anything contained in any other law for the time being in force-

(i) where upon complaints received from a number of depositors, that any Financial Establishment defaults the return of deposits after maturity, or fails to pay interest on deposit or fails to provide the service for which deposit has been made, or

(ii) where the Government have reason to believe that any Financial Establishment is acting in a calculated manner with an intention to defraud the depositors,

and if the Government are satisfied that such Financial Establishment is not likely to return the deposits, or to make payment of interest or to provide the service, the Government may, in order to protect the interests of the depositors of such Financial Establishment, pass an *ad interim* order attaching the money or other property alleged to have been procured either in the name of the Financial Establishment or in the name of any other person from and out of the deposits collected by the Financial Establishment, or if it transpires, that such money or other property is not available for attachment or not sufficient for repayment of the deposits, such other property of the said



Financial Establishment or the promoter, partner, director, manager or member of the said Financial Establishment or a person who has borrowed money from the Financial Establishment to the extent of his default or, such other properties of that person in whose name properties were purchased from and out of the deposits collected by the Financial Establishment, as the Government may think fit, and transfer the control over the said money or property to the Competent authority."

6. Section 3 of the said Act indicates that the Government has power to attach the property alleged to have been procured either in the name of the Financial Establishment or in the name of any other person from and out of the deposits collected by the Financial Establishment. Hence, it is not necessary that when the Government attached the property, it should also be established that the registered owner of the property is actually involved in the offence punishable under the provisions of TANPID Act. However, the provisions of TANPID Act provide a machinery to ensure the remedy to the owners of the property to seek release of the property by approaching the special Court concerned.

7. Having regard to the serious factual dispute that arises for consideration in this matter, I am not inclined to entertain the writ petition and hence, the writ petition is dismissed with liberty to the petitioner to approach the Special -Court for appropriate relief to get the property of the petitioner released from the order of attachment in accordance with law. No costs. Consequently, the connected Miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

gsr

To

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

2.The Competent Authority -cum- District Revenue Officer,
Karur District, Karur.

3.The Inspector of Police, Economic Offences Wing-II,
Erode.

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

+1CC to Spl.Govenrment Pleader Sr.No.36364

GJM/PEK/26.7.16-3p-6c

W.P (MD) No.16607 OF 2013