

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.29 of 2016

and

CMP.No.152 of 2016

1. Sumathi
2. Ponnammal

...Appellants/ Respondents 8&9

versus

1. The Competent Authority and District Revenue Officer, Namakkal District, Namakkal.
2. M/s.VSJ Marketing Pvt. Ltd., and Website: www.7th sense.asia.com 291-5, 24 Opp to Raja Thirumana Mandapam, Junction Main Road, 5th Road, Salem (Rep. by V.Selvan (R-3) and Jothi Lakshmi (R-4) Directors)

- 3.V.Selvan
- 4.Jothilakshmi
- 5.K.M.Shak Naveeth
- 6.Kailasam
- 7.Balu@Balasubramani
- 8.Sampath Kumar

... Respondents 2-8/
Respondents 1-7

Appeal filed under Section 11 of the TNPID Act, 1977, against the Fair and final order passed in O.A.No.18 of 2012 dated 06.10.2015 on the file of Special Court under TNPID Act, Coimbatore.

For appellant : Mr.R.Jayaprakash
For Respondents: Mr.M.Jayasree
Government Advocate (C.S.)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed, challenging the order, dated 06.10.2015, made in O.A.No.18 of 2012, on the file of Special Court under TNPID Act, Coimbatore, by which the application filed by the second respondent, to make the interim attachment was allowed.

Brief Facts:

In the year 2007, the 3rd and 4th respondent started a Company by name VSJ Marketing Private Ltd.,. The first appellant's husband had invested money like that of a general public and was also working as agent in the Company.

2. Due to some financial crunch, on 20.04.2011, a first information report came to be registered in Crime No.1 of 2011 by the Inspector of Police, Economic Offences Wing, Namakkal against the above said Company and six others for the alleged offence under Section 420 of the Indian Penal Code, 1860 and Section 5 of the TNPID Act for the alleged act of not refunding the deposits made to the tune of Rs.24,15,000/-.

3. The Principal Secretary to Government has passed the Government Order in G.O.Ms.No.531 Home (Police-XIX) Department dated 13.07.2012 under Section 3 of the TNPID Act provisionally attaching the appellants' properties.

4. The first and the second appellants herein have filed applications in O.A.Nos.17 of 2012 and 16 of 2012, before the Special Court under TNPID Act, Coimbatore, seeking to raise the attachment of the property, which stands in their names, which had been attached by the order dated 13.07.2012.

5. O.A.No.18 of 2012 was filed by the first respondent herein, before the Special Court under TNPID Act, Coimbatore, seeking to make the interim order of attachment passed in G.O.Ms.No.531 Home Department, dated 13.07.2012, absolute.

6. By the common order, dated 06.10.2015, the applications filed by the appellants came to be dismissed and the application filed by the first respondent, was allowed.

7. Challenging the order dated 06.10.2015 made in O.A.No.18 of 2012, allowing the application filed by the first respondent, this Civil Miscellaneous Appeal have been filed.

8. The learned counsel for the appellant has submitted that pending the appeal, the main accused persons involved in the Company had paid the amount to 34 investors. He has also filed judgement of the Special Judge, Special Court under TNPID Act cases, Coimbatore, passed in C.C.No.9 of 2012, on 24.10.2016, in which there is a clear finding that the claim made by the 34 depositors have been satisfied by the Company. The Criminal Court has relied upon the Exs.D1 to D34- receipts, which was filed by the accused persons. As there was no criminal intention to cheat the depositors, all the accused persons were acquitted by the Criminal Court. The learned counsel had further submitted that since the claim made by the depositors had been satisfied, these appeal may be allowed, On the side of the appellant list of depositors, which finds place in page no.38 of the typed set of papers.

9. In view of the subsequent change in circumstances, this appeal is allowed and the order in O.A.No.18 of 2012, making the attachment absolute is set aside and accordingly the same is hereby set aside. O.A.No.18 of 2012 is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. Special Court, TNPID Act Cases, Coimbatore.
2. The Competent Authority and
District Revenue Officer,
Namakkal District, Namakkal.
3. The Section Officer, VR Section,
High Court, Madras.

+ 1 cc to Mr.R. Jayaprakash, Advocate SR.5003
+ 1 cc to Special Government Pleader SR.11881

C.M.A. No.29 of 2016

SV(CO)
Eu 28.4.17

सत्यमेव जयते

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