

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2017

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

Tr.C.M.P.Nos.382 to 384 of 2013
and
M.P.Nos.1,1,1 of 2013

J.B.Associates
rep by its partners
1. Jayagopal Reddiar
2. J.Prabhakar
3. J.Diwakar
4. J. Baskar

... Petitioners
(in all Tr.CMPs)

Versus

R.K.Bharatha Vasalu

... Respondent
(in Tr.CMP.No.382 of 2013)

P.Srinivasan

... Respondent
(in Tr.CMP.No.383 of 2013)

1.V.S.Nandhakumar (Died)
2.Chitra
3.Kamatchi

... Respondents
(in Tr.CMP.No.384 of 2013)

Common Prayer: Petitions filed under Section 24 of the Civil Procedure Code praying to withdraw and transfer the Suit in O.S.Nos.187, 151 and 194 of 2007 respectively pending on the file of the Learned Subordinate Judge, Vellore, Vellore District to Learned Special Judge Under TNPID Act, Chennai.

For Petitioners : M/s.R.Thulasi
(in all Tr.CMPs)

For Respondent : Mr.A.V.Elango
(in Tr.CMP.382/2017)

For Respondent : Mr.T.Dhanyakumar
(in Tr.CMP.383/2017)

Respondent 1 : Died
For Respondents 2 & 3 : Not ready in notice
(in Tr.CMP.384/2017)

C O M M O N O R D E R

These three transfer C.M.Ps. have been filed by the petitioners to withdraw and transfer the Suit in O.S.Nos.187, 151 and 194 of 2007 respectively pending on the file of the Learned Subordinate Judge, Vellore, Vellore District to Learned Special Judge Under TNPID Act, Chennai.

2. The respondents/plaintiffs herein are three different individuals who have filed the above suits in O.S.Nos.187, 151 and 194 of 2007 respectively.

3. The learned counsel for the petitioners submitted that various pro-notes were executed on behalf of the financial establishment run by them. Already proceedings were initiated under the provisions of Act 44 of 1997 and the properties were attached under the Act. Hence, the civil suit filed by the plaintiffs have to be transferred only to the Special Court, the Special Judge under the TNPID Act, Chennai.

4. The learned counsel appearing for the respondents contended that the suits have been filed based on promissory notes. The provisions of TNPID Act 1997 will be attracted only in respect of the deposits and the Special Court has got the power to initiate the proceedings. Hence, filing of a suit by a creditor against the financial establishment was not permitted by the TNPID Act and therefore the question of transfer does not arise. Earlier this Court in Tr.C.M.P.No.90 of 2010 dated 02.11.2012 held that based on judgment reported in KAMALAMMA v. MURUGAN (1999) 2 MLJ 529, there is no prohibition for institution of a suit by the creditor based on promissory note. As stated earlier in these three cases also the suits have been filed by the creditors based on the promissory note, however recoverable from the financial establishments. As per the definition of the deposit under Section 2(2) of the Act, the pro-notes cannot be termed as deposit and there is no prohibition for the respondent to maintain the suit. Ironically, the petitioner in this transfer petition and in the above said Tr.C.M.P.No.90 of 2010 are same and the said order is passed as early as on 02.11.2012. However, without bringing the same to the knowledge of this Court, the above three Tr.C.M.Ps. were filed by the petitioners. As the pro-note cannot be brought under the definition of deposit, only a civil suit is maintainable and the jurisdiction of the Special Court is not attracted.

5. Therefore, the suit filed as such is not maintainable in the Special Court. The Special Court under TNPID Act cannot hear the

above said suits. Hence, the transfer as prayed for is not warranted and the transfer petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

rsi/klt

To

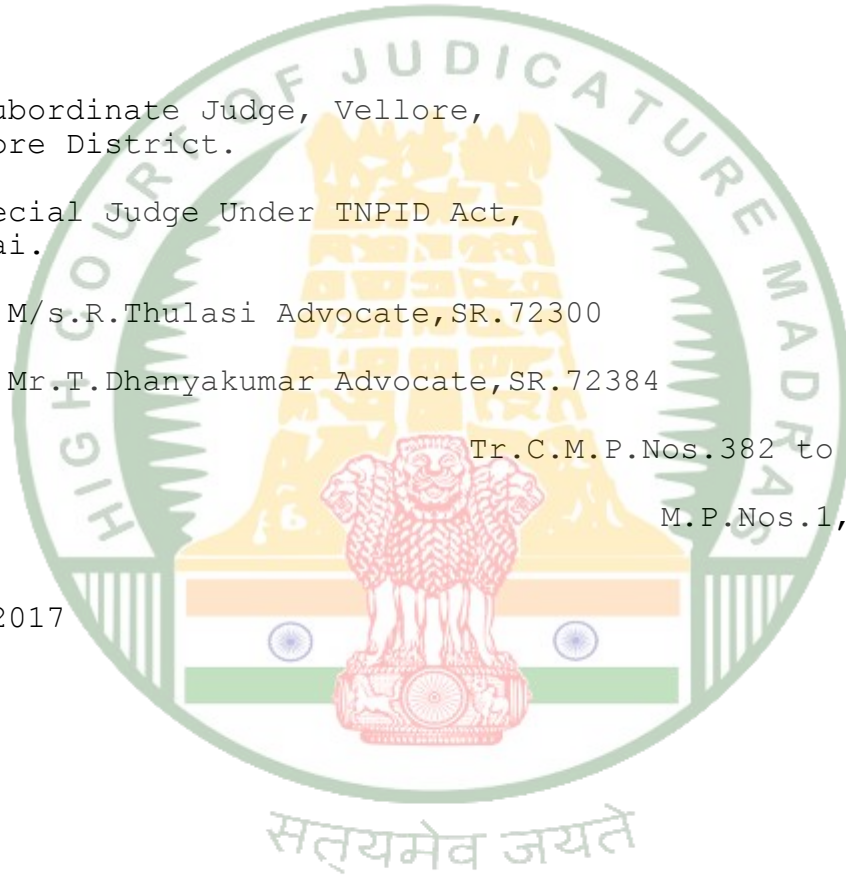
1. The Subordinate Judge, Vellore,
Vellore District.
2. The Special Judge Under TNPID Act,
Chennai.

+ 1 cc to M/s.R.Thulasi Advocate,SR.72300

+ 1 cc to Mr.T.Dhanyakumar Advocate,SR.72384

Tr.C.M.P.Nos.382 to 384 of 2013
and
M.P.Nos.1,1,1 of 2013

RK (CO)
NR 09/11/2017



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