



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1083 and 719 of 2017

and

C.M.P. (MD) Nos.7611 and 11071 of 2017

1.R.Thangarasu

2.T.Visalakshi

3.K.Periyannan

4.A.Innasimuthu

5.V.Kanagarasu

6.S.R.Ramachandran

7.S.Gandhi

... Appellants/3rd Parties/3rd Parties
in C.M.A.No.1083/2017

P.Raman

... Appellant/3rd Party/3rd Party
in C.M.A.No.719/2017

Vs.

1. The Tamilnadu Elementary School,
Teachers Federation Chennai,
Rep. by its General Secretary,
No.78, JSR Maligai,
Bells Salai,
Triplicane,
Chennai - 600 005.

...1st Respondent/Petitioner/3rd Party

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

3.P.Saminathan

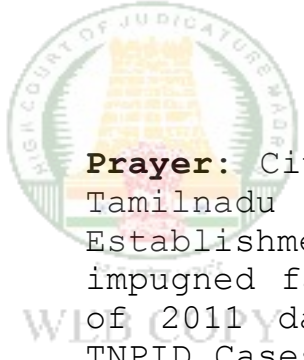
4.M.Muthan

5.P.Ramaiyan

...Respondents 2 to 5/Respondents 1 to 4/
Respondents 1 to 4

6.The Tamilnadu Elementary School
Teacher Federation,
Krishnarayapuram Block,
Rep. by its Secretary,
No.125, Amaravathy Nagar,
Puliyur Post,
Karur District.

... 6th Respondent/5th Respondent/5th Respondent
in both appeals



Prayer: Civil Miscellaneous Appeals are filed under Section 11 of Tamilnadu Protection of Interest of Depositors (in Financial Establishment) Act, to call for the records relating to the impugned fair and decretal order in I.A.No.10 of 2012 in O.A.No.5 of 2011 dated 09.09.2016 on the file of the Special Court for TNPID Cases, Madurai to set aside the same for the following among other

For Appellants in both
appeals : Mr.N.Satheesh Kumar
For Respondent No.1 in
both appeals : Mr.H.Arumugam

COMMON JUDGMENT

The appellants in these civil miscellaneous appeals are retired Teachers in the Education Department of the Government of Tamil Nadu. They were all members of Tamil Nadu Elementary School Teachers Federation (TEST). The federation is a Society under the provisions of the Societies Registration Act. The Federation had branches all over Tamil Nadu. In Krishnarayapuram block, the Federation had its branch unit. The appellants herein and others were members of the Krishnarayapuram block. The branch office bearers had collected huge monies from the appellants and other members of Krishnarayapuram block with a promise to refund at a high interest rate. The deposits were not refunded and there was default. It led to lodging of crime No.2 of 2004 on the file of the Inspector of Police, E.O.W. - 2 Karur under Section 406, 420, 120(b) of I.P.C. and Section 5 of TNPID Act, 1997. In order to protect the interest of the depositors, the Government issued G.O.Ms.No.1224, Home (Courts-IIA) Department dated 27.10.2004 attaching a few items that were allegedly purchased out of such deposits.

2.The competent authority/DRO, Karur District filed O.A.No.5 of 2011 before the Special Judge for TNPID Act Cases, Chennai. It was subsequently transferred to the Special Court of Madurai. At this stage, the parent body viz., Tamil Nadu Elementary School Teachers Federation, Chennai filed I.A.No.10 of 2012 for raising the attachment in respect of the property mentioned as item No.1 in the said G.O.Ms.No.1224 dated 27.10.2004.

3.Mr.H.Arumugam, learned counsel for the Federation would contend that the Special Act came into force on 08.08.1997. However, in the instant case, the subject property was acquired as early as on 09.09.1996. Since the acquisition of the property was prior to coming into force of the Special Act, the proceedings for attachment are not maintainable. This submission is only be

stated to be rejected.

4.The other contention of the said federation is that the property stands in their name and that as per the provisions of their bye-laws, it vests with them. It was also contended in their petition that the said property was purchased out of the subscription and donation of the members. The competent authority filed a detailed counter opposing the said claim. The competent authority wanted the attachment to be made absolute. The parties examined themselves as P.W.1 and R.W.1. On the side of the petitioners in I.A.No.10 of 2012, 9 documents were marked as Exs.P1 to P9. They are as follows:

- Ex.P1 - Copy of Certificate of Registration of Societies
- Ex.P2 - Copy of G.O.No.1998, dated 05.09.1981
- Ex.P3 - Byelaw
- Ex.P4 - Copy of Sale deed
- Ex.P5 - Copy of advertisement
- Ex.P6 - Copy of advertisement
- Ex.P7 - Copy of advertisement
- Ex.P8 - Copy of advertisement
- Ex.P9 - Copy of summon

5.It is relevant to note here that the petitioner in I.A.No.10 of 2012 did not adduce any evidence to show that the funds of the parent body were deployed for putting up the said construction. The said federation is admittedly a public body. If it had purchased any property, definitely resolution would have been passed. In this case, no such resolution was marked. There is nothing on record to indicate that there was any fund outflow from the members of the parent body by which this asset was purchased or built.

6.Thus, when an order of attachment is made in terms of Section 3 of TNPID Act, 1997, it is open to any person claiming an interest in the property to raise an objection before the Special Court. He must show cause and pray for raising of the attachment. In the instant case, even though such cause was not at all shown, the Special Court had mechanically raised the attachment by quoting the provision in the bye-laws. The bye-laws no doubt are to the effect that if a property has been purchased by a branch of the federation, it would be fully vested with the parent body. But, such bye-law provision cannot prevail over the statutory mandate.

7.As per Section 3 of TNPID Act, if a property had been procured either in the name of financial establishment or in the name of any other person from and out of the deposits collected by

<https://hservices.courts.gov.in/hservices/> establishments, it is liable to be attached. In the present case, the Krishnarayapuram block branch of TEST



federation, Chennai acting as a financial establishment collected deposits from the appellants and others and purchased the land and put up a marriage hall in the name of the parent body. Even though the property in question stands in the name of parent body, since it was purchased out of the deposits collected from the appellants and others, it is definitely liable to be attached. Opportunity was given to the parent body to show cause. As already pointed out, what we marked before the Special Court were a copy of certificate of registration, copy of G.O. attaching the item, bye-laws of the Federation, copy of sale deed and a few advertisements and the summons received from the Special Court. No material has been placed before the Special Court showing cause that even though the property stands in the name of the federation, it was the federation which actually funded the acquisition of the said asset.

8.It is not the case of the federation that they have put up such marriage halls in various parts of Tamil Nadu. This Court can therefore come to the safe conclusion that the local office bearers of the federation have collected large sums of money by way of deposits from the gullible members and expended a portion of the sum to buy a property in the name of the parent body. The Special Judge erred in allowing I.A.No.10 of 2012 and rasing the attachment made vide G.O.ms.No.1225, Home Court 2A Department dated 27.10.2004. The order impugned in these civil miscellaneous appeals is set aside.

9.At this stage, Mr.H.Arumugam, learned counsel for the federation would contend that the other properties of the accused have been deliberately left out. I therefore, direct the competent authority/DRO,. Karur to find out the left out properties of the accused and proceed against such assets also. Direction is given to the Special Judge, TNPID Act Cases, Madurai to dispose of O.A.No.5 of 2011 on or before 30.08.2018.

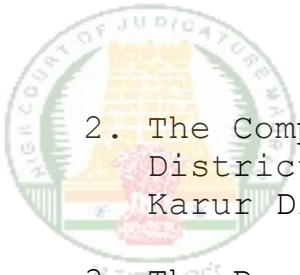
10.These civil miscellaneous appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To



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

3. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+ 2 ccs TO Mr.N.Sateesh Kumar , Advocate in SR No. 91872,91873
+ 1 cc TO Mr.H.Arumugam , Advocate in SR No. 91880

Arul

AE/RSK/SAR4/27.04.2018/5P/8C

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