

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Dated : 27.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN**C.M.A.No.441 of 2013****and****M.P.(MD)No.2 of 2013**

1.G.Sheik Mohideen
2.Ghouse Sardhar Hussain
3.Tmt.Shanu Sheik
4.Ghouse Hacoob Hussain
5.S.Banu

... Appellants/Respondents

- Vs -

Competent Authority/
District Revenue Officer,
Madurai.

... Respondent/Applicant

Prayer: Appeal filed under Section 11 of Tamil Nadu Protection Depositor Act, 1997, to call for the records pertaining to the order passed by the learned Special Judge for TANPID Act Cases, Madurai District, Madurai, in O.A.No.23 of 2012 by taking the same on his file and issuance of notice to the appellants herein through his order dated 13.12.2012 and set aside the same.

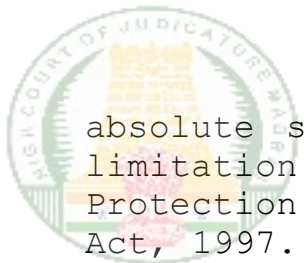
For Appellants : Mr.R.Anand
For Respondent : Mr.B.Pugalendhi
Additional Advocate General

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J U D G M E N T

This appeal has been preferred by the accused in Crime No.28 of 2010 against the order in O.S.No.23 of 2012 filed by the Competent Authority/District Revenue Officer, Madurai, the respondent herein for making the attachment of the properties belonging to the accused as absolute.

2.When the matter is called today, the learned counsel appearing for the appellants seeks permission to withdraw this appeal. However, Mr.B.Puganlendhi, learned Additional Advocate General opposed the same stating that the very appeal itself is not maintainable. In the appeal, the appellants have questioned even the maintainability of the application filed by the competent authority before the Special Court for making the attachment



absolute stating that the application has been filed beyond the limitation as prescribed under the TANPID Act viz., Tamil Nadu Protection of Interest of Depositors (Financial Establishment) Act, 1997.

3.A perusal of the records would show that the appellants have been collecting deposits assuring from high interest in the name of 'Thirukural' which is considered to be one of the ancient treaties of Tamil literature written by Saint Thiruvalluvar. Unfortunately even Thiruvalluvar is not spared to do certain illegal acts making use of his writings.

4.Since the appellants failed to pay the interest or return the deposit, many complaints were given against the accused and it was taken on file in Crime No.28 of 2010 on the file of Economic Offences Wing II, Madurai. The Economic Offences Wing II, Madurai, attached the property of the accused. Thereafter, O.A.No.23 of 2012 has been filed by the competent authority to make the attachment absolute. In the said application, notice was ordered. Against the entertainment of the application and ordered notice, the present appeal has been filed.

5.Whatever may the defence, it is always open to the appellants to plead before the trial Court and get an order on merits. Without doing so, the appellants cannot rush to this Court against the order of notice itself. It is nothing, but abuse of process of law. Therefore, the appeal is not maintainable and the same is dismissed. The interim order already granted is vacated. The trial Court is directed to dispose of the application filed by the competent authority after giving opportunity to the appellants, within a period of sixty days from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To:

The Special Judge for TNPID Act Cases,
Madurai District, Madurai.

+1cc to MR.R.Anand, Advocate, SR.No:11626

+1cc to Special Government Pleader, SR.No:12036

rj2

AE/CM MSA/SAR2/08.03.2017/2P/4C

C.M.A.No.441 of 2013

and

M.P. (MD) No.2 of 2013

27.02.2017