



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA(MD)Nos.620 & 1112 of 2015

and

MP(MD)No.2 in CMA(MD)No.620 of 2015

&

& MP(MD)Nos.2 & 3 of 2015 in CMA(MD)No.1112 of 2015

CMA(MD)No.620 of 2015 :

Lyla Christabel

... Appellant

Vs.

1. The Competent Authority &
The District Revenue Officer,
Kanyakumari District
at Nagercoil.

2. Sathiya Bankers,
Nithiravilai,
Kanyakumari District.

3. Sathiadhas

... Respondents

CMA(MD)No.1112 of 2015 :

1. Satya Bankers,
Nithiravilai,
Kanyakumar District.
(Rep.by the 2nd Appellant)

2. Sathiadhas

... Appellants

Vs.

1. The Competent Authority &
The District Revenue Officer,
Kanyakumari District
at Nagercoil.

<https://hcservices.ecourts.gov.in/hcservices/>

2. Laila Christabel

... Respondents

Common Prayer: Civil Miscellaneous Appeals are filed under Section 11 of Tamil Nadu Protection of Depositors (Financial Establishments) Act 1997 to call for the records relating to the judgment dated 29.12.2014 passed in O.A.No.5 of 2008 by the Special Judge, Madurai and to set aside the same.

For Appellants
in both appeals : Mr.G.V.Selvam for Mr.G.Chandru
For 1st Respondent
in both appeals : Mr.D.Muruganandham,
Additional Government Pleader.

2nd respondent : Given up in CMA(MD)No.1112 of 2015
R2 & R3 : No appearance in CMA(MD)No.620 of 15

COMMON JUDGMENT

Satya Bankers is claimed to be a proprietary concern run by one Sathiadhas. He was licensed to run the business of pawn broking. But he appears to have collected deposits from the public. Therefore, the pawn broking license was cancelled. Since the said Satya Bankers committed default in the matter of refund of the deposits, the depositors lodged a criminal case before the Inspector of Police, E.O.W-2, Kanyakumari. This led to registration of criminal case No.7 of 2005 under sections 409, 420 of IPC and 5 of the Tamil Nadu Protection of Interest of Depositors Act, 1997. Subsequently, final report was filed and the case has been taken on file in C.C.No.91 of 2008 on the file of Special Judge, TNPID Act, Madurai. In order to protect the interest of the depositors, the Government issued G.O.Ms.No.347, Home(Courts II A) Department, dated 26.04.2006 attaching as many as 22 items of property standing in the name of proprietor Sathiadhas and his wife Laila Christabel. In order to make the attachment absolute, the competent authority cum District Revenue Officer, Kanyakumari District filed O.A.No.5 of 2008 filed before the Special Court, Madurai.

2.The appellant as well as his wife were given notices in the said proceedings. But, neither of them adduced any oral evidence or mark any documents. It is stated that from as many as 45 depositors, a sum of Rs.77.00 lakhs was collected. It appears that only 7 of them were re-paid while the remaining 38 have not been repaid. It is also submitted by the learned counsel appearing for the appellants that a sum of Rs.62.00 lakhs is lying to the credit of O.A.No.5 of 2008 on the file of Special Court. Since the attached items were purchased from out of the deposits collected from the public, the Special Court held that the application for making the attachment absolute is maintainable. The appellants have not showed any cause for raising the attachment. Therefore, the Special Court by order dated 29.12.2014 made the interim attachment absolute and disposed of O.A.No.5 of 2008 filed the competent authority cum District Revenue Officer, Kanyakumari



District. This is under challenge in these appeals. Both the proprietor Sathiadhas as well as his wife have filed individual appeals. The appellants also appeared in person as well as through their counsel.

3. He would submit that pursuant to the suggestion made by the Court, 2 items were released. He would further claim that one item was sold by him privately and the money was deposited in the Court. If such a sale had taken place, it can only be treated as null and void. As per the statutory scheme set out in TNPID Act, 1997 it is only the Court which should direct the competent authority to sell the property by public auction and realize the sale proceeds. There is no scope for private sale of attached properties. Since the appellants have not shown any cause to raise the interim attachment made by the competent authority, the Special Judge rightly made the attachment absolute.

4. There is no merit in both the appeals. Both the appeals stand dismissed. The Special Judge for the TNPID Act, Madurai is directed to complete the entire proceedings on or before 31.07.2018. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Special Judge for the TNPID Act, Madurai.
2. The Competent Authority &
The District Revenue Officer,
Kanyakumari District at Nagercoil.
3. The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 92387
+ 1 CC TO Mr. G. CHANDRU, ADVOCATE IN SR No. 91906

SKM

TE/SV-MMS/SAR-3 : 28/02/2018 : 3P/7C