

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2018

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P.No.34848 of 2003

AND

WMP.Nos.42355 and 42356 of 2003

1. Sakthivel

2. Radha Sakthivel

...Petitioners

..Vs..

1. State of Tamil Nadu

Rep. By its Secretary to Government,
Home (Courts II A) Department,
Fort St.George,
Chennai - 600 009.

2. Competent Authority &
Additional Commissioner
(Cinema & Irrigation)

Land Administration Department
Chepauk, Chennai - 600 005.

3. The Deputy Tahsildar,
North Zone,
Madurai North Taluk,
Collectorate, Madurai - 625 020.

4. Inspector of Police,
Economic Offence Wing II,
Madurai City,
Madurai.

5. S.Chandrasekar

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Certiorari to call for the records of the 1st respondent made in G.O. Ms.No.351 Home (Courts II A) Department dated 24.04.2002 and quash the same.

For petitioner : Mr.S.Silambanan, Senior Counsel
for Mr.N.Umapathi

For respondent : Mr.K.Ravikumar (for R1 to R4)

ORDER

The prayer sought for in this Writ Petition is for issuance of a Writ of Certiorari to call for the records of first respondent made in G.O.Ms.No.351 Home (Courts II A) Department dated 24.04.2002 and quash the same.

2. The petitioners are the partners of M/s.Raja Rajeswari Finance and Aditya Finance, which was located at No.4, O.C.P.M.Road, Chinna Chokkikulam, Madurai. On 05.07.2001, the fourth respondent Police has registered a case against the petitioner for offences punishable under Section 409 and 420 I.P.C read with Section 5 of the Tamil Nadu Protection of Interest of Depositors (In Financial Establishments) Act, 1997 (hereinafter referred to as TNPID Act) in crime No.15 of 2001.

3. During the pendency of the case, the respondents (i.e) the first respondent has passed a Government Order in G.O.Ms.No.351, Home (Courts II A) Department dated 24.04.2002, whereby in exercise of the powers conferred under Section 3 of the TNPID Act, the Governor had made an Ad-interim Order attaching the properties of the petitioners at No.4, O.C.P.M.Road, Chinna Chokkikulam, Madurai, as specified in the Schedule to the said order and transferred the control over the properties to the competent authority, namely, the Additional Commissioner of Administration, Chepauk, Chennai-5 appointed under the above said Act. Challenging the said order dated 24.04.2002 in G.O.Ms.No.351 Home (Courts II A) Department, the present Writ Petition has been filed with the aforesaid prayer.

4. Heard Mr.S.Silambanan, learned Senior Counsel appearing for the petitioners who would submit that, since the very TNPID Act itself came into effect from the year 1997, the said provisions of the Act could not have been invoked insofar as the alleged crime or offences against the petitioners.

5. Pursuant to the said stand taken by the petitioners, the learned Additional Government Pleader appearing for the respondents, on instructions, has submitted that, in fact, the criminal case was filed against the petitioners in Calender Case No.206 of 2004 on the file of the Judicial Magistrate II, Madurai, was disposed by order dated 23.11.2010, by which, since the parties had entered into a compromise, out of Court, the said offences had been compounded between the parties and

accordingly, the accused in that case, who are the petitioners herein, had been acquitted. A copy of the said order passed by the learned Magistrate dated 23.11.2010 is also produced before this Court for perusal.

6. Also, the learned Additional Government Pleader has relied upon the communication from the Investigating Officer in the format, which discloses that, the case comes under TNPID case or not and it was specifically mentioned as Non TNPID Case. Therefore, it becomes clear that the provisions of TNPID Act have not been invoked insofar as the case against the petitioners are concerned. When that being the position, the impugned Government Order issued by the first respondent invoking Section 3 of the TNPID Act could not have been made, as the very provision itself could not have been invoked against the petitioners.

7. In view of the above position and the development which has been noticed by this Court, I am of the view that, the impugned order could no longer considered to be a valid one. Accordingly, the impugned order in G.O.Ms.No.351 Home (Courts II A) Department dated 24.04.2002 is liable to be quashed. Accordingly, it is quashed.

8. In the result, the Writ Petition is allowed. Consequently, the properties, if any attached, pursuant to the impugned order, if it is not already released to the petitioner, shall be released by the respondents within a period of one month from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Secretary to Government,
State of Tamil Nadu
Home (Courts II A) Department,
Fort St.George,
Chennai - 600 009.

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2. Competent Authority &
Additional Commissioner
(Cinema & Irrigation)
Land Administration Department
Chepauk, Chennai - 600 005.

3. The Deputy Tahsildar,
North Zone, Madurai North Taluk,
Collectorate, Madurai - 625 020.

4. Inspector of Police,
Economic Offence Wing II,
Madurai City, Madurai.

+1 cc to M/s.Silambanan Associates, Advocate Sr.No.67349
+1 cc to The Government Pleader, Sr.No.67846

GJ-II(CO)
CSL/22.10.2018

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