

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.07.2018
CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.22543 of 2007
and M.P.No.2 of 2007

O.A.A.Anantha Padmanabhan Chettiar

...Petitioner

Versus

1. The Government of Tamil Nadu
Rep. by the Secretary to the Government
Home (Courts IIA) Department
Fort St.George, Chennai-9.
2. The District Revenue Officer
Coimbatore.
3. The Revenue Divisional Officer
Devakottai.
4. The Inspector of Police
Economic Offences Wing-II
Coimbatore.
5. The Tahsildar
Karaikudi.

....Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records of the first respondent herein in G.O.Ms.No.111-Home (Courts IIA) Department dated 13.02.2006 and the possession certificate proceedings of the respondents 4 and 5 herein dated 28.06.2007 pursuant to the said Government order and quash the same.

For Petitioner : M/s.AL.Ganthimathi

For Respondents : Mr.K.Ravikumar
Additional Government Pleader

O R D E R

The petitioner has filed this Writ Petition seeking to quash the possession certificate proceedings passed by the 1st respondent in G.O.Ms.No.111 Home (Courts 11A) Department, dated 13.02.2006.

2.The case of the petitioner is that the petitioner is the owner of the house property situated at Old No.22, New No.9, Dhanalakshmi Vilas, O.A.Street, Pallathur. The said property is an ancestral property originally constructed by the grandfather of the petitioner. During the life time of his grandfather, the property was partitioned, in which ½ share of the property was allocated to the petitioner's father, which was gifted to AR.Adaikappa Chettiar Trust and the remaining half share was allocated to the petitioner and he was in possession and enjoyment of the same. The petitioner is one of the Directors of M/s.Karaikudi Multi Industries Private Limited Company, which is one of the partnership company of M/s.Arunachaleswara Investment Company, Udumalpet. The said investment company is said to have received deposits from the public and invested the same in Arunachaleswara Mills, Udumalpet. On account of the setback and universal slump in the textile industries, the Arunachaleswara Mills became sick and was not in a position to repay the deposit amount to the depositors. Thereafter, the said company was taken over by one Mr.Nataraja Moorthy, who assured to repay the amount to the depositors. While such being the position, the petitioner received an order in G.O.Ms.No.111-Home(Court II-A) Dept. dated 13.02.2006, issued by the first respondent under Section 3 of the Tamil Nadu Protection of Investments of Depositors in Financial Establishments Act, 1997, (hereinafter called as Act) stating that complaints have been received from the public that M/s.Arunachaleswara Investments Company, Udumalpet had defaulted to return the deposits made by the depositors and hence the Government has to protect the interest of such depositors and hence the Government had attached the above said property of the petitioner in order to repay the depositors as per the procedure laid down in Sub-Section 3 and 4 of the said Act. Challenging such attachment order, the petitioner has filed the present Writ Petition.

3.Heard both sides.

4.The learned senior counsel appearing for the petitioner would submit that, though the petitioner has challenged the impugned order of interim attachment, however a criminal case was initiated in C.C.No.67 of 2008 before the Tamil Nadu Protection of interests of Depositors (in Financial Establishments) cases Special Court, Coimbatore and by an order dated 26.11.2012, the Special Court, Coimbatore had acquitted the petitioner.

5.The learned Additional Government Pleader would submit that the 1st respondent had filed a counter, wherein in Paragraph 11, it is stated as follows:

"11)It is submitted that the petitioner filed

a petition before the Special Court under TNPID Act cases, Coimbatore that the petitioner would settle the amount to the depositors and to recall the depositors. Accordingly, on 29.09.2012, an amount of Rs.3,39,598/- was settled to 9 depositors through D.D. Before the TNPID Court, Coimbatore. The entire amount was settled by the accused to all 22 depositors. The case was compounded and acquitted by the Special Court under TNPID act cases, Coimbatore on 26.11.2012."

6.In view of the undisputed facts, the order of interim attachment is liable to be set aside. Accordingly, the impugned order dated 13.02.2006 is set aside and the present Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary,
The Government of Tamil Nadu
Home (Courts IIA) Department
Fort St.George, Chennai-9.
2. The District Revenue Officer
Coimbatore.
3. The Revenue Divisional Officer
Devakottai.
4. The Inspector of Police
Economic Offences Wing-II
Coimbatore.

5. The Tahsildar
Karaikudi.

+1cc to M/s.AL.Ganthimathi Advocate SR.No. 52152
+1 CC TO GOVERNMENT PLEADER SR.NO. 52421

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and M.P.No.2 of 2007

ASK(11/10/2018)