

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.52 of 2008
and M.P.No.1 of 2008

M.K.Ravindran ... Appellant/7th Respondent

vs.

1.State of Tamil Nadu
Represented by its,
Deputy Superintendent of Police,
Economic Offence Wing II,
Chennai.

2.Chrompet Saswatha Nidhi Ltd,
Chennai - 44, Represented by its Chairman,
Dr.Balamurali Krishna Building,
Ramakrishan Street,
Raghava Nagar, Chrompet,
Chennai - 600 011.

3.N.Ramakrishnan

4.T.S.Gokilan

5.Dr.Vamsic Mohan

6.R.Seshadri

7.G.Guruswaminathan Gokilan

8.M.S.V.Subramaniam

9.M.R.Kanaga Durga

... Respondents/Claimant and
Respondents 1 to 6, 8 and 9

Prayer: This Civil Miscellaneous Appeal is filed under Section 11 of the Criminal Law Amendment ordinance, 1944 r/w section 105 of the code of civil procedure, to call for the records in M.P.No.18997 of 2004 on the file of the District and Sessions Judge, Chengalpattu and set aside the order dated 25.06.2007 there by raising the order of attachment passed in respect of the property, being half share in vacant land measuring an extent of 1000 sq.ft comprised Block No.110, T.S.No.3452/3, Door No.7, Vidyodhaya Main Road, T.Nagar, Chennai - 600 017 belonging to the petitioner.

For Appellant :Mr.T.S.Vijayaraghavan

For Respondents :Mr.Devnarendran, GA
for R1

R2,4,5,6 and 7 : No appearance

J U D G M E N T

The appellant was employed as a Director of M/s.Chrompet Saswatha Nidhi Ltd. in his professional capacity as a Chartered Accountant. He was not a shareholder of the said company. By G.O.Ms.No.931 dated 23.9.2003, the Government of Tamil Nadu attached the properties of promoters and directors of the said company as the said company had committed default in payment of money to its depositors. As the appellant was also its director, his property was also attached.

2. The State of Tamil Nadu represented by Deputy Superintendent of Police, Economic Offence Wing-II Chennai also filed Criminal M.P.No.18997 of 2004 to attach the property of the directors in terms of the above G.O.Ms.No. 931 dated 23.9.2003, issued by the Government of Tamil Nadu.

3. The learned counsel for the appellant drew my attention to an order dated 6.6.2007 passed by the Principal Sessions Judge, Chengalpattu under Sections 409 & 420 of I.P.C. in M.P.No.3379 of 2007. The said petition was filed by one Subramaniam son of Ramamoorthy, a director of M/s.Chrompet Saswatha Nidhi Ltd. The court there are granted anticipatory bail to the said Subramaniam, subject to conditions based on the submission of the Public Prosecutor that a total of 99 depositors had preferred the complaints and the total amount involved was Rs.1,41,53,500/- out of which 1,38,00,000/- had already been paid and only Rs.3,00,000/- was to be paid to the depositors and that no charges had been framed so far.

4. The learned counsel for the appellant submits that the impugned order passed by the 1 Principal District Judge, Chengalpattu on 25.6.2006 allowing the petition filed in CMP.No.18997 of 2004 seeking to attach the properties of the promoters including that the appellant was unsustainable inasmuch as the appellant was only an employee of M/s.Chrompet Saswatha Nidhi Ltd. employed in his professional capacity as a Chartered Accountant and was designated as a director of the said company.

5. It is further submitted that his property which was attached pursuant to G.O.Ms.No.931 dated 23.9.2003 of the Government of Tamil Nadu was a self acquired property purchased by him by selling a property and after raising loan from the bank. The Learned counsel for the appellant further submits that the property was not purchased by the appellant out of the proceeds of the deposits collected by the 1st respondent M/s.Chrompet Saswatha Nidhi Ltd.

6. The learned counsel for the appellant further submits that the total outstanding was due to various depositors was approximately Rs.19 crores and that substantial payments have been made subsequently and at best approximately only a sum of Rs.1.5 crores may be the due to be paid to the depositors.

7. The learned counsel for the appellant has drawn my attention to an order passed on 13.8.2011 in C.M.A.No.2231 of 2007 filed by one R.Seshadri against the impugned order. He submits that the court has recorded about 3000 depositors who were identified and claims of almost 2000 depositors were settled by the 1st respondent. He further submits that when the said order was passed, there were only about 951 depositors whose outstandings were to be settled and total outstanding due was about Rs.2,36,87,800/-. He further submits that the court noticed that the total value of the property of 8 persons as per the order of the lower Court was sufficient to meet the claims of the remaining depositors.

8. The learned counsel for the appellant submits that under the provisions of the Tamil Nadu Act, properties purchased out of the amount deposited by depositors can be attached and therefore properties which were purchased independently by a director cannot be attached.

9. He further submits during the pendency of the present appeal the respondent had issued notice on 7.5.2009 and call upon the depositors to come forward to make the claims.

10. I have considered the arguments of the learned counsel for the appellant. This court is not equipped with relevant facts as to what are the amounts that are due to the depositors as on date and whether the subject property of the appellant which has been attached was purchased by selling a property and by raising loan as was canvassed before this Court by the learned counsel for the appellant.

11. Therefore, the 1st respondent is directed to issue one more notice and advertise the same and call upon the remaining depositors to make their claim remaining unpaid as on date. Such notice may be advertised in a local newspaper in Tamil and English having wide circulation throughout the State of Tamil Nadu after giving sufficient notice to remaining Depositors to respond. Thereafter, the 1st respondent may file a status report before the District and Session Court, Chengalpattu in M.P.No.18997 of 2004.

12. The above exercise shall be carried out by the 1st respondent within a period of 6 months from date of receipt of copy of this order. Needless to state, a copy of the status report shall be furnished to the appellant. The appellant shall thereafter file appropriate application before this court for raising the order of attachment. It is left open to the appellant to substantiate that the property in question was purchased by the appellant by selling other properties and by raising loan from a bank. If such application is filed by the appellant, the learned District and Sessions Judge, Chengalpattu is directed to consider the applications of the petitioner on merits and pass appropriate orders in accordance with law.

13. The civil miscellaneous appeal stands disposed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

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To

The District and Sessions Judge,
Chengalpattu.

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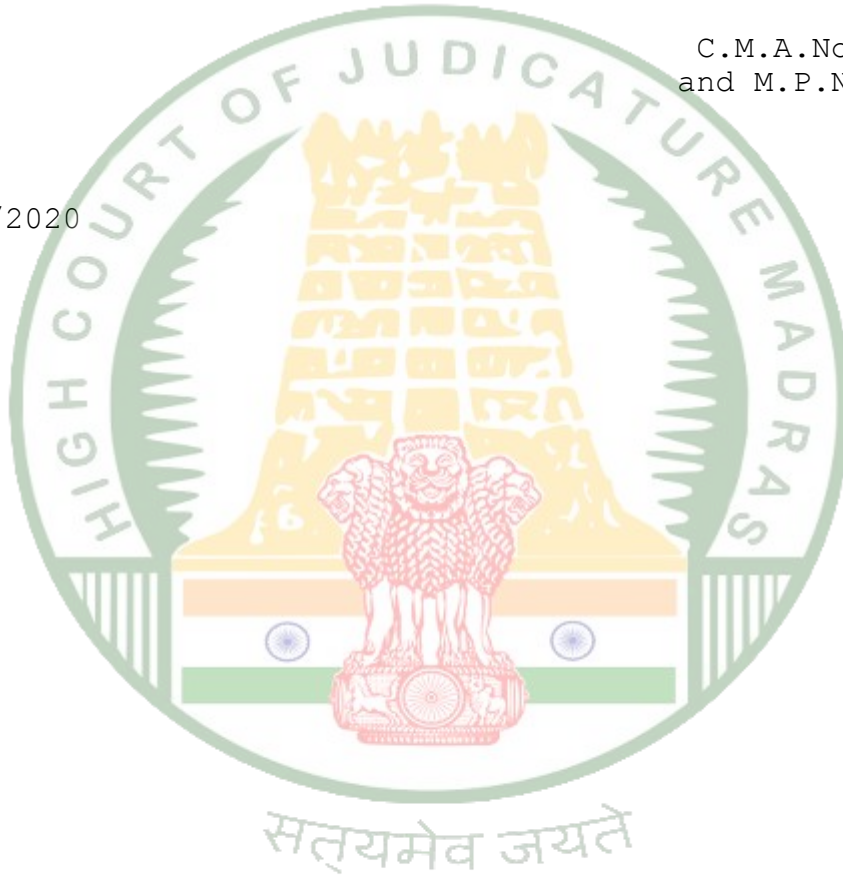
Copy to

The Section Officer,
VR Section, High Court, Madras.

+1cc to the Government pleader Sr.100090
+1cc to Mr.S.R.Rajagopal, Advocate Sr.99702

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and M.P.No.1 of 2008

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srg 04/08/2020



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