



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A. Nos. 1380 & 1381 of 2011

P. Shyamala ... Appellant in both CMAs/
Petitioner/ Petitioner
Vs

1. Inspector of Police,
Economic Offences Wing - II,
Vellore - 9.

2. J. Baskar

3. J. Prabhakar

4. J. Divakar

... Respondents in both CMAs/
Respondents / Respondents

Prayer in C.M.A. No. 1380 of 2011: Civil Miscellaneous Appeal has been filed under Section 11 of T.N. Protection of Interests of Depositors (in Financial Establishment Act, 1997), to set aside the order dated 23.02.2011 and made in I.A. No. 66 of 2010 in O.A. No. 10 of 2010 on the file of Special Judge Under TANPID Act, 1977, Chennai.

Prayer in C.M.A. No. 1381 of 2011: Civil Miscellaneous Appeal has been filed under Section 11 of T.N. Protection of Interests of Depositors (in Financial Establishment Act, 1997), to set aside the order dated 23.02.2011 and made in I.A. No. 67 of 2010 in O.A. No. 10 of 2010 on the file of Special Judge Under TANPID Act, 1977, Chennai.

For Appellant (in both CMAs) : Mr. P. Jagadeesan

For R1, R3 & R4 (in both CMAs) : No appearance

For R2 (in both CMAs) : Not ready in notice

COMMON JUDGMENT

Notice to the Second Respondent has not been served. There is also no representation on behalf of the State (the First Respondent) when the case was called. I however do not wish to keep these appeals pending for the aforesaid reason and the appeals are pending from the year 2011, as no prejudice will be caused to them by this order.



3. The Appellant is aggrieved by the common impugned orders dated 23.02.2011 passed in I.A. Nos. 66 & 67 of 2010 in O.A. No. 10 of 2010. By the impugned order, the Appellate Court rejected the application filed by the Appellant/Petitioner for marking of additional documents and reopening the evidences for cross-examination of the Appellant/Petitioner.

4. The Appellant is owner of the schedule mentioned property which was attached under the Provisions of the Tamil Nadu Protection of Interests of Depositors Act (shortly TNPID Act), 1977, for the failure of the Appellant's husband, the Third Respondent herein along with his brothers, other two Respondents i.e., Respondents 2 & 4 to repay the amounts to their depositors.

5. Before the Special Judge, the Appellant had filed O.A. No. 10 of 2010 under Section 9 of the TNPID Act and Section 151 of C.P.C and had offered to deposit a sum of Rs. 21,26,160/- (Rupees Twenty One Lakhs Twenty Six Thousand One Hundred and Sixty Only) as cash security for raising the order of attachment.

6. Since the schedule mentioned property of the Appellant was attached, the Appellant/Petitioner wanted to reopen the evidences and wanted to re-examine/cross-examine the witnesses. The application came to be dismissed by the impugned common order.

7. In the said proceeding, the First Respondent submitted that the value of the schedule mentioned property in the year 2010 itself was more than 75 lakhs (Rupees Seventy Five Lakhs Only) and therefore, the application filed for deposit a mere sum of Rs. 21,26,160/- (Rupees Twenty One Lakhs Twenty Six Thousand One Hundred and Sixty Only) to raise the order of attachment of the schedule mentioned property, should not be allowed.

8. I have considered the arguments of the Learned counsel appearing for the Appellant and perused the impugned order and the applications filed by the Appellant before the Special Judge, Chennai under the provisions of TNPID Act, 1977 which is culminated in the impugned order.

9. The extent of the amount which are presently due to the depositors/creditors of Second Respondent to Fourth Respondent are not available in this Court. Therefore, I do not find any reason to interfere with the impugned order. At the same time, the Appellant/Petitioner can be given another opportunity to furnish fresh security in cash before the said Court after ascertaining the amounts that are still due to the depositors and after ascertaining the value of the property.



10. In case the Appellant/Petitioner files an application for such deposit to protect the interest of the depositors who are yet to be paid, the Special Judge, Chennai under TANPID Act may consider and pass a fresh order after considering over all facts and circumstances of the case.

11. In the light of the above observations, these Civil Miscellaneous Appeals stands disposed with liberty to the Appellant. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

arb

To

1. The Special Judge (Under TANPID Act),
Chennai.

2. The Section Officer,
Vernacular Section, Madras High Court.

+lcc to Mr.P.Jagadeesan , Advocate SR.No. 98830
C.M.A. Nos. 1380 & 1381 of 2011
A.SK(22/01/2020)