

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.34975 of 2015
and
M.P. Nos.1 & 2 of 2015
and
W.M.P. No.8063 of 2016

1. R. Sivakumar
2. R. Ganesan

... Petitioners

-vs-

1.The Principal Secretary to Government,
Home (Police XIX) Department,
Secretariat, Fort. St. George,
Madras - 600 006.

2. The District Revenue Officer,
Special Courts on Attachment,
Coimbatore.

3. The Inspector of police,
Economic Offences Wing (EOW) -II
Coimbatore.

4. The Inspector of Police,
District Crime Branch,
Coimbatore.

... Respondents

Prayer:- Writ petition is filed under Section 226 of the Constitutional of India to issue a writ of Certiorari calling for the records pertaining to the Government Order in G.O. Ms. No.1081 dated 04.12.2013 on the file of the 1st respondent and quash the same.

For Petitioner : Mr. ARL. Sundaaresan Senior Counsel
for K.S. Karthik Raja

For Respondents -1 - 4 : Mr. A. Natarajan, Public Prosecutor
Assisted by Mr. Mohamed Muzammil

O R D E R

This Writ petition has been filed to issue a Writ of Certiorari calling for the records pertaining to the Government order in G.O. Ms. No.1081 dated 04.12.2013 on the file of the 1st respondent.

2. According to the petitioner, the first respondent has passed an order of attachment of the properties in G.O. Ms. No.1081 Home (Police-XIX) Department dated 04.12.2013 on account of misappropriation of Public fund and directed the second respondent/competent authority to pursue further action in accordance with the procedure laid down in the TNPID Act, 1997. Pursuant to the aforesaid order, the Second respondent has filed O.A. No.3 of 2014 before the Special Judge under TNPID Act, 1997, to make absolute the order of ad-interim attachment of the first respondent.

3. The learned counsel for the petitioner would contend that as per the Section 4(3) of the TNPID Act, O.A.No.3 of 2014 shall have to be filed by the second respondent before the Special Court within 30 days from the receipt of the orders of the first respondent under Section 3 of the TNPID Act, 1997, for making absolute the ad-interim order of attachment. But, the second respondent has preferred the application before the Special Court after a period of 30 days. Moreover, the learned counsel would submit that after filing the aforesaid application, the Special Court should have passed the final order within a period of 180 days under Section 7(6) of the TNPID Act, 1997. But, till now, final order is yet to be passed by the Special Court. The aforesaid application for making absolute the attachment order neither has been preferred within 30 days nor final order has been passed within 180 days after receipt of the application as contemplated under Sections 4(3) and 7(6) of the TNPID Act, 1997 respectively. Hence, prayed to allow the writ petition.

4. The learned Government Advocate appearing for the respondents would submit that as there is a specific provision under Section 7(2) of TNPID Act, 1997 to file objection against the order of attachment passed by the first respondent before the Special Court, the writ petitioner has approached this Court by this writ petition is not maintainable.

5. Having considered the contention raised by learned Government Advocate, Section 7(2) of TNPID Act., 1997, is extracted hereunder for reference:

7(2) The Special Court shall also issue such notice, to all other persons represented to it as having or being likely to claim, any interest or title in the property of the Financial Establishment or the person to whom the notice is issued calling upon such person to appear on the same date as that specified in the notice and make objection if he so desires to the attachment of the property or any portion thereof on the ground that he has an interest in such property or portion thereof.

6. In view of the above submission made by the learned Government Advocate and considering the facts and circumstances of the case, the contention of the petitioner shall be left open and the petitioner shall be at liberty to file necessary application objecting the order of attachment passed by the first respondent before the TNPID Court.

7. Accordingly, the writ petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
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Economic Offences Wing (EOW) -II
Coimbatore.

4. The Inspector of Police,
District Crime Branch,
Coimbatore.

5.The Public Prosecutor,
High Court of Madras,
Chennai

+1cc to The Public Prosecutor, sr.36939
+1cc to K.S. Karthik Raja, Advocate sr.35408

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