

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.03.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP No.3378 of 2019

and

CMP No.22145 of 2019

S.R.Sundaram

... Petitioner /Petitioner

Vs.

1. The Competent Authority cum
District Revenue Officer,
Vellore District 632 009.

... 1st Respondent/1st Respondent/Applicant

2. Manager, Repco Bank,
33, North Usman Road, T.Nagar,
Chennai-17.

...2nd Respondent/2nd Respondent/2nd Respondent

Prayer: This Civil Revision Petition has been filed under Section 227 of the Constitution of India against the order dated 11.04.2019 passed in I.A.Sr.No.45 of 2019 in O.A.No.9 of 2005 by the Special Judge under TNPID Act, Chennai.

For Petitioner : Mr.V.Raghavachari for
M/s.S.Sakthi Subha Gopikrishnan

For Respondents: Mr.Y.T.Aravind Gosh,
Special Gov.Pleader (for R1)
No appearance for R2.

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O R D E R

This petition has been filed against the order dated 11.04.2019 passed in I.A.SR.No.45 of 2019 in O.A.No.9 of 2005 by the Special Judge under TNPID Act, Chennai.

2. The petitioner has filed the above said petition before the Special Judge for the TNPID Act, Chennai to raise the attachment order passed by the first respondent in O.A.No.9 of 2005 pertaining to the schedule mentioned property under the G.O.Ms.No.442 dated 27.05.2003 . That

application was rejected by the Special Judge at the S.R. stage itself. Challenging the above said order, the present civil revision petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the Special Judge, rejected the raise attachment petition filed by the petitioner, even without numbering it and hence, he prayed to allow this civil revision petition.

4. The learned Special Government Pleader, appearing for the respondent submitted that, though the application was not numbered, the learned Special Judge had elaborately discussed the matter and had given a definite findings and hence, the order passed in the application at the S.R. stage does not warrants any interference by this court.

5. At this juncture, it is relevant to rely upon a decision rendered by this court in G.V.Vanitha Vs. K.Dhanasekaran reported in 2016(5) CTC 329, wherein, in paragraphs No.13 and 14, it has been held thus.

13. On a perusal of the order passed by the Rent Controller, I am of the considered view that the findings given by the Rent Controller cannot be disputed. The Rent Controller had considered all the aspects and rejected the application. The only infirmity in the order is that the parties were not given an opportunity to put forth their case. In spite of filing the affidavit of undertaking before the Apex Court stating that the 2nd petitioner will not induct any third party in the property, the third party petitioners have filed the application under Order 21 Rule 96 to 100 of CPC claiming right over the property. The Rent Controller should have numbered the application and given an opportunity to put forth their case. The Rent Control Appellate Authority had also rightly observed that the Rent Controller should have passed similar order after giving opportunity to both side.

14. The order of the Rent Controller is liable to be set aside only on the ground that the application was not numbered and opportunity was not given to the parties to put forth their case. In these circumstances, the order passed by the Rent Control Appellate Authority remanding the matter for numbering the application and giving opportunity to both parties is just and proper. I do not find any reason to interfere with the order passed by the

Rent Control Appellate Authority.

6. Herein in this case also, though the Special Judge had elaborately discussed and given findings, the application filed by the petitioner to raise the attachment was not numbered and the parties were not given opportunity to put forth their case. In the light of the above said decision, this court is inclined to pass the following order.

i) The Special Judge under TNPID Act, Chennai is directed to number the application in I.A.Sr.No.45 of 2019, if it is otherwise in order.

ii) If the application is numbered, the Special Judge is directed to dispose the application within a period of two weeks from the date of receipt of the copy of this order, without influencing any of the observations made by this court in this civil revision petition.

7. With the above observation this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mst

To

The Special Judge under TNPID Act,
Chennai.

+lcc to Mr.S.SakthiSubha Gopikrishnan, Advocate, S.R.No. 20423

+lcc to the Special Government Pleader(CS), S.R.No. 20593

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AP(CO)
GN(31/07/2020)