



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

W.P (MD)No.8629 of 2020

W.P. NO. 8629 OF 2020
A.Packiyamary

... Petitioner

Vs.

1.The District Revenue Officer
(TNPID Act),
Madurai Revenue District,
Collectorate,
Madurai - 20.

2.The Inspector of Police,
Economic Offence Wings - II,
Madurai - 14.

3.M/s.Jeevan Property Promoter India Limited,
Rep. by its Managing Director,
No.12, I Floor, Pattaraikkara Street,
Goripalayam, Madurai - 2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent to take action against the third respondent's properties in Patta Nos.712, 713 and 714, situated at Kottappatti Revenue Village, Sivagangai District and attach the same under Sections 3 and 4 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997, in respect of case in Crime No.1 of 2019, on the file of the second respondent, by considering the petitioner's representation, dated 17.07.2020, within a time frame to be fixed by this Court.

For Petitioner : Mr.M.Mohamed Sherbudeen

For R1 and R2 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Writ Petition has been filed praying for issuance of a Writ of Mandamus, directing the first respondent to take action against the third respondent's properties in Patta Nos.712, 713 and 714, situated at Kottappatti Revenue Village, Sivagangai District and attach the same under Sections 3 and 4 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997 [hereinafter referred to as 'the TNPID Act'], in respect of case in Crime No.1 of 2019, on the file of the second respondent, by considering the petitioner's representation dated 17.07.2020.



2.The case of the petitioner is that in the year of 2012, the third respondent herein through their Agents, approached the petitioner and informed that their Company viz., M/s.Jeevan Property Promoter India Limited is having good reputation in property Promoter's field and if an amount is deposited by monthly basis about 60 months or in full, they will return the money with high interest. By believing their sugarcoated words, the petitioner deposited Rs.3,28,750/- with the third respondent Financial Establishment in her name and also in the name of her husband. Likewise, some of the persons, who are residing in the Village, in which, the petitioner is residing, deposited a huge amount. After attaining the maturity period, the third respondent did not return the deposit amount with interest. In order to defraud the depositors, the third respondent issued false notice in the Newspapers that they appointed a Liquidator and requested the customers to submit the records for settlement. But, they failed to settle the money and threatened the customers with dire consequences. Thus, a criminal case has been registered against the third respondent in Crime No.79 of 2018, dated 09.02.2018, for the offences punishable under Sections 420, 294(b) and 506(ii) of I.P.C., on the file of the Sivagangai Town Police Station.

3.The further case of the petitioner is that since the occurrence place is within the Trichy Region, some of the depositors lodged a complaint before the second respondent viz., the Inspector of Police, Economic Offence Wing - II, Madurai - 14 and based on which, the second respondent has also registered one another criminal case in Crime No.1 of 2012, for the offences punishable under Sections 406, 420 and 120-B of IPC and Section 5 of the TNPID Act against the third respondent and the same is pending. Only in the said circumstances, the petitioner came to know that some of the properties situated in Patta Nos.712, 713 and 714 are belong to the third respondent and the third respondent attempted to sell the same in a backdoor method without informing that the said properties belong to them. Further, the third respondent created an encumbrance and executed a General Power of Attorney Deed in respect of those properties to one Arulsamy, Kennedy, Muthukumar, Sirumalarselvi and Alakimeenal, vide Document No.1445 of 2018, on the file of the Mathakuppatti Sub-Registrar Office. Therefore, the petitioner herein on 17.07.2020 sent a detailed representation to the respondents 1 and 2 with a request to take action as per Sections 3 and 4 of the TNPID Act. But, no action has been taken so far. Hence, the petitioner has approached this Court for the relief stated supra.

4.The learned counsel appearing for the petitioner reiterated the averments made in the affidavit filed in support of the Writ Petition and prayed for issuance of a direction to the respondents 1 and 2 for considering the representation of the petitioner, dated



5. Heard the learned Additional Public Prosecutor appearing for the respondents 1 and 2.

6. First of all, it is not in dispute that on 09.02.2018 and 02.01.2019, two cases have been registered against the third respondent, in which, the de-facto complainants have made allegations against the third respondent as they have not repaid the maturity deposit amount as per the agreed terms. In otherwise, Patta Nos.712, 713 and 714 in respect of the properties, situated at Kottappatti Revenue Village, Sivagangai District, stand in the name of the third respondent, thereby, under Section 3 of the TNPID Act, the first respondent herein is the competent person for making necessary arrangement for attaching the properties.

7. In this regard, it is relevant to see Chapter II, Section 3 of the TNPID Act, which reads as follows:-

''3. Attachment of properties on default of return of deposits.- Notwithstanding anything contained in any other law for the time being in force :-

(i) where, upon complaints received from a number of depositors, that any Financial Establishments defaults the return of deposits after maturity, or fails to pay interest on deposit or fails to provide the service for which deposit has been made, or

(ii) where the Government have reason to believe that any Financial Establishment is acting in a calculated manner with an intention to defraud the depositors,

and if the Government are satisfied that such Financial Establishment is not likely to return the deposits, or to make payment of interest or to provide the service, the Government may, in order to protect the interests of the depositors of such Financial Establishment, pass an *ad-interim* order attaching the money or other property alleged to have been procured either in the name of the Financial Establishment or in the name of any other person from and out of the deposits collected by the Financial Establishment, or if it transpires that such money or other property is not available for attachment or not sufficient for repayment of the deposits, such other property of the said Financial Establishment or the promoter, partner, director, manager or member of the said Financial Establishment or a person who has borrowed money from the Financial Establishment to the extent of his default or such other properties of that person in whose name properties were purchased from and out of the deposits collected by the Financial Establishment, as the Government may think fit, and transfer the control over the

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property to the Competent authority.''



8.So, according to the said provision, as already observed, the first respondent is the competent person for taking necessary steps for attachment of the properties owned by the third respondent Financial Establishment. It is obvious, only to compel the duties to be performed by the first respondent, the petitioner filed this writ petition with an intention to recover the defrauded amount. In fact, there is no difficulty for the first respondent in considering the prayer sought for by the petitioner. Only, in the circumstances, if the relief sought for by the petitioner is fulfilled, the object of the TNPID Act referred to above, has to be fulfilled. Hence, this Court directs the respondents 1 and 2 to consider the representation of the petitioner, dated 17.07.2020 and pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

9.Accordingly, this Writ Petition is allowed. No costs.

Sd/-

Deputy Registrar Accounts

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

smn2

To

1.The District Revenue Officer
(TNPID Act),
Madurai Revenue District,
Collectorate,
Madurai - 20.

2.The Inspector of Police,
Economic Offence Wings - II,
Madurai - 14.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

W.P (MD)No.8629 of 2020

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