

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2580 of 2011

1.K.R.Jayakumar

2.J.Kalamani

...Appellants/Petitioner

Vs.

1.J.Ilancheliyan

2.The Competent Authority and
District Revenue Officer,
Erode.

3.The Superintendent of Police,
Economic Offences Wing-II,
Government Estate,
Chennai 600 002.

...Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 11 of TNPID Act, against the order and decree dated 18.03.2011, made in O.A.No.9 of 2009, on the file of the Special Judge under TNPID Act, Coimbatore in dismissing the O.A., file by the appellants.

For Appellants : Mr.J.Franklin

For Respondents : Mr.S.Jeganathan, GA(CS) for RR2 & 3

J U D G M E N T

The fair and decreetal order dated 18.03.2011 passed in O.A.No.9 of 2009 is under challenge in the present civil miscellaneous appeal.

2. The appellants mainly raised a ground against the order dated 18.03.2011, that the agreement for sale between the first appellant and the first respondent was validly executed and therefore, the Special Court has erroneously dismissed the petition filed by the appellants. The first respondent had failed to perform his part of the obligation in execution and registration of the sale deed as contemplated under the agreement for sale. Therefore, the interest of the agreement holder was not protected by the Special Court.

3. The original application in O.A.No.09 of 2009 was filed by the appellants for the relief to pass an order raising the interim attachment made in respect of Item 2 of the scheduled properties notified by virtue of G.O.Ms.No.547, Home (Courts-IIA) Department, dated 19.06.2003 and communicate the same to the Sub Registrar Office, Tirupur.

4. The contention of the learned counsel for the appellants is that the valid agreement of sale was entered into between the first appellant and first respondent. However, the sale was not executed and subsequently, a suit for specific performance of the agreement of sale was filed in O.S.No.133 of 2003 on the file of the Sub Court, Tirupur. The suit was also decreed in favour of the appellants on 20.02.2004. The execution petition was filed in E.P.No.59 of 2004 and the amount as per the decree was deposited in compliance of the order of the Court. When the fair sale deed was filed for execution, the same was not done on the ground that the property was attached. The Sub Registrar, Tirupur passed a notice to the first appellant through District Registrar, Tirupur in letter dated 10.03.2005 by stating that the appellants are bound to get no objection certificate from the Economic offences Wing, Chennai, in respect of the property for registration. Thereafter, the appellants filed O.A.No.9 of 2009. The Special Court adjudicated the issues with reference to the facts and circumstances. The Special Court considered the interest of the depositors under the provisions of the TNPID Act.

5. It is admitted by the appellants that they came to know the property has been attached by means of G.O.Ms.No.547 dated 19.06.2003. Vasavi Enterprises had defaulted to return the amount of Rs.25,19,000/- to 213 depositors. Therefore, the Government issued an ad interim attachment order and thereafter, O.A.No.14 of 2006 was filed before the Special Court for TNPID Cases to grant an absolute order of the properties attached by the Government in G.O.Ms.No.547 dated 19.06.2003. The competent authority also has stated that the possession of the said property has been taken by the Nodal Officer as per the Government Order and as per the Encumbrance Certificate issued by the Tirupur District Registrar, no transaction has been effected in respect of the said property as per the details mentioned in Ex.R2. A careful perusal of Ex.A4 and R2, the Special Court found that there was a force in the contentions of the competent authority. Considering the documents as well as the evidences produced, the Special Court made a finding that very object of the enactment of TNPID Act, is to protect the interest of the depositors who had lost their money with the financial institutions. The Government has also passed an order of ad interim attachment of the subject property.

6. Under those circumstances, the Special Court dismissed the petition. This Court do not find any perversity or infirmity as such. The appellants are not entitled to further relief as sought for in the present civil miscellaneous appeal.

7. Accordingly, the fair and decreetal order dated 18.03.2011 in O.A.No.9 of 2009 stands confirmed and C.M.A.No.2580 of 2011 stands dismissed. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

gsk

To

1.The Special Judge under TNPID Act,
Coimbatore.

2.The Competent Authority and
District Revenue Officer,
Erode.

3.The Superintendent of Police,
Economic Offences Wing-II,
Government Estate, Chennai 600 002.

+1cc to Special Government Pleader, Sr.No.10889

C.M.A.No.2580 of 2011

MG(CO)
KKV/16/03/2021

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