

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.03.2021
CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.978 of 2015
and
M.P.No.1 of 2015

V.K.Praveen Kumar

..Appellant

Vs.

1.State of Tamil Nadu,
Rep.by Deputy Superintend of Police,
Economic Offences Wing-II,
Chennai - 40.

2.M/s.Senthil Financial Services
No.40, Swarnambigai Nagar,
Virugambakkam, Chennai - 92.
Rep.by R.M.Mohan @ R.M.Mohun.

3.R.M.Mohan @ R.M.Mohun
Son of Ramanathan
No.40, Swarnambigai Nagar,
Virugambakkam, Chennai - 92.

..Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 11 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments Act), 1997, against the order dated 17.03.2015 passed in O.A.No.10 of 2013 on the file of the Special Judge under TNPID Act, 1997, Chennai - 104.

For Appellant : Mr.D.Ashok Kumar
For Respondents : R1 - Mr.Dev Narendran
Government Advocate (CS)
R2 & R3 - Notice sent - Vacated

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J U D G M E N T

The Fair and Decreetal order dated 17.03.2015 passed in O.A.No.10 of 2013 is under challenge in the present Civil Miscellaneous Appeal.

2. The learned counsel appearing on behalf of the appellant mainly contended that the appellant is the bonafide purchaser of the property through Sale Deed dated 02.07.2012 in Document No.3687/2012 from the 3rd respondent. He was not aware of the proceedings under the TNPID Act. The appellant

was an innocent purchaser, purchased for a valuable sale consideration. Thus, his rights are to be protected. Contrarily, the Special Court has not considered any of the nature of the transaction, which was genuine and rejected the application filed by the State to raise the attachment.

3. The first respondent / State filed an application to confirm the attachment under the provisions of the TNPID Act. In the said application, the appellant contested the issues mainly on the ground that he was an innocent buyer and his sale was no way connected with the financial transaction of the accused persons.

4. The Special Court adjudicated the issues with reference to the documents and evidences and arrived a conclusion that the sale was executed in favour of the appellant in Vide Document No.3687 of 2012 dated 02.07.2012. However, the respondent/Police registered F.I.R.No.3 of 2008 on 18.7.2008 under Section 420 of I.P.C and Section 5 of TNPID Act. The third respondent sent a representation on 13.11.2010 to the Inspector General of Police, Economic Offences Wing-II, Chennai for the attachment of five properties belonging to him, which excludes in mentioning the application mentioned property, which is the subject matter of the present appeal. On 10.10.2011, the 3rd respondent has sent reminder notice to the Inspector General of Police, Economic Offences Wing-II, Chennai, for attachment of five properties belonging to him, excluding the property, which was transferred in the name of the appellant through Sale deed dated 02.07.2012. On 07.02.2012, the LIC Housing Finance Limited is having the charge over the property transferred in the name of the appellant, had returned the original document to the third respondent / owner of the property and the LIC had issued receipt for closing the loan account as against the third respondent caused on 16.02.2012. After releasing the said property from the LIC Housing Finance Limited, the third respondent executed a Sale Deed in favour of the appellant on 02.07.2012 vide Document No.3687 of 2012.

5. This being the facts and circumstances, the Special Court arrived a conclusion that the sale was executed during the pendency of the criminal case filed against the third respondent and therefore, the transaction between the appellant and the third respondent was shabby and doubtful. Taking note of all these facts, the Special Court confirmed the order of attachment passed by the competent authority.

6. This Court is of the considered opinion that it is an admitted fact that the Sale Deed in favour of the appellant was executed on 02.07.2012, during the pendency of the criminal case before the Economic Offences Wing-II, Chennai, in FIR.No.3/2008, more specifically, the sale was executed after a lapse of four years from the date of registration of the criminal case. Therefore, the doubt raised by the Special

Court is merit acceptance and accordingly, the other aspects of the matter are to be adjudicated during the final hearing of the case before the Special Court.

7. If at all, the appellant has chosen to raise the attachment, he is at liberty to file an application under Section 9 of the TNPID Act, offering security in lieu of attachment to the satisfaction of the Special Court. As far as the merits of the case is concerned, there is no perversity or infirmity as such in respect of the order passed by the Special Court.

8. Thus, Fair and Decreetal order dated 17.03.2015 passed in O.A.No.10 of 2013 stands confirmed and consequently, the Civil Miscellaneous Appeal in C.M.A.No.978 of 2015 is dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Special Judge under TNPID Act,
Chennai.

+1cc to Mr.D.Ashok kumar , Advocate SR.No. 13037
+1 cc to Government Pleader Sr.No. 12948

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A.SK(16.04.2021)

सत्यमेव जयते C.M.A.No.978 of 2015

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