

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.01.2021
CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.Nos.640 & 641 of 2016
and
C.M.P.Nos.5303 & 5304 of 2016

Dhanasekaran

..Appellant in both CMAs

Vs.

1.The Deputy Superintendent of Police,
Economic Offences Wing - II,
Coimbatore.

2.M/s.Keyes Mercantile,
D.No.13/117, Green Field Road,
Nethra Garden, Nehru Nagar (West)
Kalapathy, Coimbatore.

3.Seshu Onfle Infotech Pvt. Ltd.,
1088-A, Meenakshi Nagar,
Thadagam Road, Coimbatore - 2.

4.K.Sasirekha

5.C.Kalki

6.S.Sudharsan

7.R.Seshagiri Rao

8.S.Deepa Sudharsan

9.A.Suresh

...Respondents in both CMAs

Prayer in C.M.A.No.640 of 2016: Civil Miscellaneous Appeal filed under Order 43 Rule 1of C.P.C., read with Section 11 of Tamil Nadu Protection of Interest Depositors Act, to set aside the order passed in I.A.No.27 of 2015 in O.A.No.7 of 2011 on the file of the Special Judge under TNPID Act Cases, Coimbatore and the order passed by the Lower Court in I.A.No.27 of 2015 dated 04.02.2016.

Prayer in C.M.A.No.641 of 2016: Civil Miscellaneous Appeal filed under Order 43 Rule 1of C.P.C., read with Section 11 of Tamil Nadu Protection of Interest Depositors Act, to set aside the order passed in I.A.No.28 of 2015 in O.A.No.7 of 2011 on the file of the Special Judge under TNPID Act Cases, Coimbatore and the order passed by the Lower Court in I.A.No.28 of 2015 dated 04.02.2016.

For Appellant

:

M/s.Umasuthan
[in both CMAs]

For Respondents : Mr.S.Jeganathan
Government Advocate (CS)
[For R1]
[in both CMAs]

No appearance - R9
R2 to R8 - Left

COMMON JUDGMENT

The orders dated 04.02.2016 passed in I.A.Nos.27 and 28 of 2015 in O.A.No.7 of 2011 passed by the Special Court under TNPID Act, Coimbatore are under challenge in the present Civil Miscellaneous Appeals.

2. The 1st respondent / Deputy Superintendent of Police, Economic Offences Wing - II, Coimbatore filed O.A.No.7 of 2011 under Section 8 of TNPID Act. In the Original Application, the appellant herein filed Interlocutory Applications to re-open the evidence in order to summon the 4th respondent, 6th respondent and 50 persons mentioned in Annexure-I to give evidence in O.A.No.7 of 2011. The said 50 persons are the poor depositors, who deposited their hard-earned money with the financial company. The Criminal case was registered. The petitioner claims that all the 50 depositors are to be examined by reopening the evidence.

3. The learned counsel for the appellant states that he is already repaid the deposit amount to the persons, who deposited.

4. However, these factors are to be adjudicated in the original application and by re-opening the evidence, the same cannot be done and such a petition filed to examine all the depositors would fructify the proceedings itself. As rightly contended by the trial Court, such Interlocutory Applications are filed in order to prolong and protract the issues, which cannot be encouraged at all. Undoubtedly, the appellant is at liberty to raise the points and the grounds in the main application. However, the relief as such sought for in the Interlocutory Applications to reopen the evidence at this stage is certainly not permissible and the reasonings furnished by the trial Court are candid and convincing.

5. The trial Court categorically made a finding that 4th and 6th respondents are not the owners of the properties and the persons shown in the schedule are not cited as witnesses and the petitioner, who has been shown as 8th respondent in O.A.No.7 of 2011 closed his side already. O.A.No.7 of 2011 has been posted

for arguments. At this stage, the Interlocutory Applications are filed to re-open the evidence in order to drag the proceedings in O.A.No.7 of 2011.

6. The learned counsel for the appellant states that even during the pendency of the present Civil Miscellaneous Appeals, the trial Court proceeded with the Original Application. However, the Original Application filed in the year 2011 is pending for the past about 9 years, which would certainly caused prejudice to the interest of the depositors, who had deposited their hard-earned money.

7. Thus, all the issues are to be adjudicated without causing any further delay and by affording an opportunity to all the parties concerned. Accordingly, the orders dated 04.02.2016 passed in I.A.Nos.27 and 28 of 2015 are confirmed and consequently, the Civil Miscellaneous Appeals in C.M.A.Nos.640 and 641 of 2016 stands dismissed.

8. The trial Court is directed to dispose of the Original Application in O.A.No.7 of 2011, as expeditiously as possible and preferably within a period of six (6) months from the date of receipt of a copy of this judgement and the parties to the Original Application are directed to co-operate for the early disposal of the matter.

9. The parties to the appeal are restrained from seeking unnecessary adjournments. Adjournments are to be granted only on genuine grounds and by recording reasons. Adjournments on flimsy grounds are to be rejected in limine by all Courts. The parties cannot be given privilege of getting adjournments for their benefit in order to prolong and protract the issues. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To
The Special Judge under TNPID Act Cases, Coimbatore.

+1cc to The Government Pleader SR.NO..2889

AKM/01.04.21/3P-3C/

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19.01.2021