IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.NO.2708 OF 2014
AND
M.P.Nos.1 AND 2 OF 2014

M/s.Susi Emu Farms India Pvt. Ltd.,
Rep. by its Managing Director,
M.S.Guru @ Gurusamy,
S/o.Maran, 97-B, Raja Street,
New Bus Stand, Perundurai - 638 052.
Erode District. .. Appellant

Vs.

1. The State of Tamil Nadu rep. by
   The Principal Secretary to Government,
   Department of Home,
   Secretariat, Chennai-600 009.

2. The District Revenue Officer,
   Erode District, Erode - 638 001. ... Respondents

PRAYER :

Civil Miscellaneous Appeal (CMA) is filed under Section 11 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act (TANPID), against order dated 11.10.2013 made in O.A.No.13 of 2013 on the file of the Special Court for TANPID Act Cases, Coimbatore.

For Appellant : Mr.S.Kumara Devan

For Respondents : Mr.A.Devenarendran
Government Advocate (CS)



J U D G M E N T

On previous hearing i.e., 23.02.2021, when the matter was called, the learned counsel for the appellant submitted that the appellant was absconded but this Court called for the particulars about the stage of the case pending in O.A.No.13 of 2013 on the file of the Special Court under TANPID Act, Coimbatore. Accordingly, 6 cases are pending against the appellant/accused and he was lastly appeared on 22.01.2001 and all the cases are still pending,but the trial not concluded.

2. Heard on both sides.

3. On a perusal of the records, it reveals that the appellant preferred the CMA against the order dated 11.10.2013, passed by the learned Special Judge under TNPID Act, Coimbatore in O.A.No.13 of 2013, which was filed by him to raise the order of attachment made in G.O.Ms.No.711, dated 21.09.2012 relating to 7445 birds and immovable properties.

4. The learned Government Advocate (CS) for the respondents submitted that O.A.No.13 of 2013 was filed by the appellant/petitioner to raise the order of attachment made in G.O.Ms.No.711, Home (Police XIX) Department, dated 21.09.2012 relating to 7445 birds and immovable properties as mentioned in the Schedule II of the Properties in O.A.No.13 of 2013, filed by the appellant. The appellant is a Private Company managed by its Managing Partner is M.S.Guru @ Gurusamy. The appellant company was started to promote and propagate the Emu farms in the State of Tamil Nadu. The Emu bird is a bird of Australian Origin and the appellant Company made a propagation that Emu bird can survive in any type of climate and Emu farm is a more profitable business and they also gave attractive promise to the public. Besides, they entered into agreement with persons offered deposit Rs.1.5 lakhs and to get Emu Chicks, and other ancillaries and started to collect Rs.1.5 lakhs from each depositors, collected more than Crores of rupees.

5. But, as agreed the appellant farm failed to repay the deposit. So, the Police received about more than 3000 complaints from 13000 investors, and came to know about the innocent farmers who were cheated by giving false promise by the appellant Company. So many cases were registered against them. The competent authority was given power to attach the properties of the appellant Company by G.O.Ms.No.711, Home (Police XIX) Department, dated 21.09.2012. A case in Crime No.2/2012 under Sections 406,420 IPC and 5 of the TANPID Act was registered on 09.08.2012. The appellant Company and its partners were arrested and remanded. During the course of investigation, it has been revealed that they have collected deposits amount in a tune of Rs.97,48,12,520/- from 3767 depositors in two schemes and defaulted to repay the amount(s) as they promised. So, the competent authority filed O.A.No.26 of 2012 and O.A.No.12 of 2013 before the TANPID Court, for attachment of movable and immovable properties of the defaulted farm (appellant company) and its partners.

6. Accordingly, O.A.No.12 of 2013 was filed by

Competent Authority, District Revenue Officer, Erode District, Erode praying to grant absolute attachment order by the Special Court, under Section 4(3) of Tamil Nadu Protection of Interest of Depositors (in Finance Establishments) Act 1997 and also permit the petitioner to sell the 12 vehicles (approximate value Rs.34,30,000/-) and frozen amount rs.21,96,409.18 may be credited in the name of Competent Authority and District Revenue Officer, Erode District in the Savings Bank A/o.No.101501000010744 in the Indian Overseas Bank, Surampettai Branch at Erode under Section 7(6) of Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act 1997.

7. The appellant Company filed O.A.No.3 of 2013 praying to raise the order of attachment in G.O.Ms.No.703 dated 21.09.2012 relating to four wheeler vehicles and Bank Accounts and also filed O.A.No.13 of 2013 seeking to raise the order of attachment in G.O.Ms.No.711 dated 21.09.2012 passed by the Government of Tamilnadu relating to the immovable properties and 7445 Emu birds and pass such other suitable orders.

8. On hearing both sides, the TANPID Court concluded that the properties are purchased by the defaulted farm/ Company along with the partners after formation of the farm, out of deposited amounts collected from the public, so the appellant Company's properties were attached in O.A.No.26 of 2012 and O.A.No.12 of 2013.

9. Accordingly, O.A.No.3 of 2013 and O.A.No.13 of 2013 filed by the appellant Company to raise the attachment order was dismissed on 11.10.2013. Aggrieved by the said attachment order, this appeal is preferred by the defaulted farm through its Managing Director.

10. The questions of Law that arises for consideration is as to "whether the impugned order passed by the TANPID Court in O.A.No.13 of 2013 is sustainable?"

11. The facts reveals that appellant Company defaulted to repay the deposit amount to the deposit holders, which was collected by giving false hope and promise to repay them. Further, the amount collected from the public was utilised for personal gain by purchase of the movable and immovable properties as shown in the Schedule of G.O(Ms)No.711, Home (Police XIX) Department, dated 21.09.2012. Most of the depositors are poor farmers and their hard earned agricultural

money was forced to be deposited in the appellant Company who gave false hope and fanciful attraction with regard to repayment with bonus amount. So, the appellant cheated many depositors for more than Crores of rupees and the legal action had been taken against them, and also the Criminal cases were also lodged against them, which are pending without much progress.

12. At the time of the arguments, technically the appellant's counsel stating that appellant is absconded, but information from TANPID Court reveals that he is attending the Court. Since the appellant Company farm cheated many of the depositors for holding crores of amounts in their hand and utilised public money by purchasing movable and immovable properties for their personal gain. Therefore, action taken by competent Authority to safeguard the interest of the depositors and to disburse the deposit amount through the sale proceeds arising out the sale of movable and immovable properties belongs to the accused.

13. The learned Special Judge under TANPID Act, Coimbatore rightly passed the order making the attachment as absolute and permitted to sell the properties, which is valid under law. Accordingly, question of law is answered in favour of the respondents.

14. Therefore, the appeal is dismissed as devoid of merits and the learned Special Judge under TNPID Act, Coimbatore is directed to dispose of the main case as early as possible, without giving adjournments. Consequently, connected Miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Court For TANPID Act Cases,
   Coimbatore.

2. The Principal Secretary to Government,
State of Tamil Nadu,
Department of Home,
Secretariat, Chennai-600 009.

3. The District Revenue Officer,
Erode District, Erode - 638 001.

+2cc to Special Government Pleader (CS), SR.No.12511 & 14971

C.M.A.No.2708 of 2014
and
M.P.No.1 and 2 of 2014

GSM(CO)
CS/01/04/2021