

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.02.2021
CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.4696 of 2019
C.M.P.No.26691 of 2019

S.Mohammed Farook

.. Appellant

vs.

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

2.M/s.Green Life,
No.5, 2nd Floor Lawanya Towers,
Bharathi Street, Lakshmi Mill Bus Stop,
Pappanaickanpalayam, Coimbatore.

3.M.Asmath Ghan Ghori

4.M.Amjad Ghan Ghori

5.B.Syed Mohamed Rafi

6.K.V.Balamanikandan

7.Ayub Ghan Ghori

8.I.Mohamed Ismail Ghri

9.Arfaaz Ghori

10.A.Zulfikar

.. 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 31.10.2019 made in O.A.No.02 of 2012 on the file of the learned Special Judge for Exclusive Trial of TNPID cases, Coimbatore.

For Appellants : Mr.R.Vivekananthan

For Respondent : Mr.Y.T.Aravind Gosh
Additional Government Pleader (CS)
for R1
RR2, 3 & 5-Left
RR4,7,8 & 10-No such addressee
RR6 &9-Unclaimed

O R D E R

The Fair and Decreetal Order dated 31.10.2019 passed in O.A.No.2 of 2012 is under challenge in the present Civil Miscellaneous Appeal.

2. The appellant claims that he is a third party, as far as the criminal case registered under the TNPID Act is concerned. He is a *bona fide* purchaser of the immovable property which is attached by the Government by invoking the powers under Section 8 of the TNPID Act.

3. The learned counsel appearing on behalf of the appellant mainly contended that even as per the charge sheet, the total deposit to be returned to the *bona fide* depositors is for a sum of Rs.81,85,000/- for 44 depositors. Already the immovable properties belong to the accused persons in the criminal case were attached. The learned counsel appearing on behalf of the appellant made a submission that three valuable properties belong to the accused persons were already attached by the Government. This being the factum, the property belonging to the appellant may be raised, in view of the fact that it may not be required to satisfy the depositors, in the matter of repayment of deposits.

4. The learned Additional Government Pleader appearing on behalf of the first respondent/Competent Authority made a submission that if at all the appellant claims as a *bona fide* purchaser and money collected from the depositors did not involve regarding the purchase of the property which is attached, then it is left open to the appellant who approach the Special Court under Section 9 of the TNPID Act so as to produce the security and release the attachment. Contrarily, the attachment may if release at this juncture would certainly affect the interest of the depositors.

5. Such assessment is to be made by the Special Court with reference to the value of the properties already attached belong to the other accused. Therefore, the Special Court has to assess the correct value of the properties belongs to the accused persons which were already attached and thereafter, consider the case of the appellant, if any application is filed under Section 9 of TNPID Act for raising the attachment.

6. This being the option made available to the appellant, the appellant is at liberty to approach the Special Court under Section 9 of TNPID Act. If at all any such application is filed, the Special Court is bound to assess the facts and circumstances and also the value of the properties belongs to the accused which were already attached and thereafter, take a decision on

merits and in accordance with law. Thus, the impugned order dated 31.10.2019 passed in O.A.No.2 of 2012 stands confirmed.

7. Accordingly, the Civil Miscellaneous Appeal stands dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

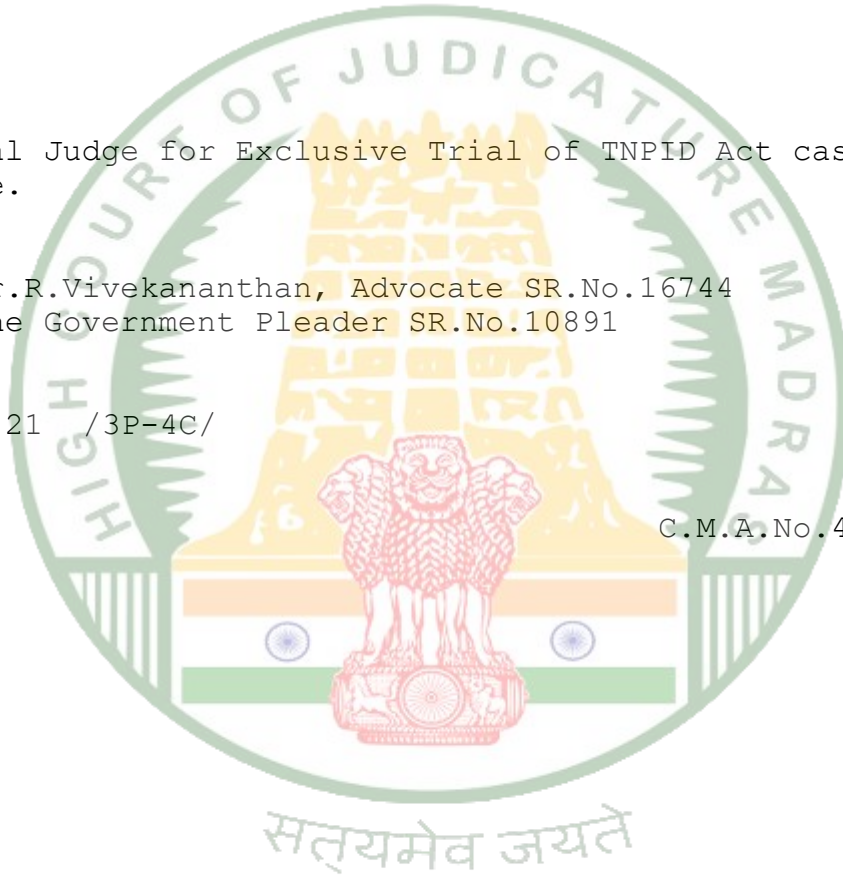
To

The Special Judge for Exclusive Trial of TNPID Act cases,
Coimbatore.

+1cc to Mr.R.Vivekananthan, Advocate SR.No.16744
+1cc to The Government Pleader SR.No.10891

akm/15.04.21 /3P-4C/

C.M.A.No.4696 of 2019
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