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1

CRP.No.2435 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

CORAM:

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

C.R.P.No.2435 of 2017

and

C.M.P. No. 10851 of 2017

C.S.I. Thoothukudi Nazareth Diocese,
Rep. by its Treasure
Mohan Raj Arumai Nayagam,
Caldwell Hr. Sec. School Campus,
Thoothukudi- 628 001.
Petitioner

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Versus

- 1.M/s. JBJ City Developers Ltd.
- 2.M/s. JBJ City Developers Ltd.
- 3.M/s. JBJ Building and Promoters,
- 4.M/s. JBJ Tour and Travels,
- 5.M/s. JBJ Hotels and Resorts,
- 6.M/s. JBJ Chits,
- 7.M/s. JBJ Foundations
- 8.M/s. JBJ Abode Lee Hedges,
- 9.M/s. JBJ Relief Fund,



10. M/s.JBJ Executive Welfare Fund,
11. M/s. JBJ Mercy Scheme
(Sl. No.1 to 11 situated at
No.1742, 1st Floor, B Portion,
18th Main Road, Anna Nagar West,
Chennai - 600 040.
rep. by Thiru. Justin Devadoss @ David and
Tmt. Bella Justin.
- 12.Justin Devadoss @ David
- 13.Tmt. Bella Justin,
14. J. Jerina Wilma Graf,
15. J. Jerish Isaac Dev,
16. The Competent Authority and
District Revenue Officer,
Collector's Office, Chennai - 600 001.
17. Deputy Superintendent Police,
EOW-II, Sidco, Old Corporate Building,
Thiru. Vi.Ka. Industrial Estate,
Guindy, Chennai - 600 032.
- Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 09.03.2016 of the Special Judge under T.N.I.P.D. Act, 1997, Chennai passed in S.R.No.27 of 16, in O.A. No.9 of 2013.



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For Petitioner : Mr.J. Antony Jesus

For Respondents : Mr.B. Tamil Nidhi for R16 & R17

: No Such Person For R12 to R15

ORDER

This Civil Revision Petition has been filed by the petitioner herein seeking to set aside the fair and decreetal order dated 09.03.2016 in S.R.No.27 of 16 on the file of the Special Judge under T.N.I.P.D. Act, 1997, Chennai in O.A. No.9 of 2013.

2. The case of the petitioner is that M/s.JBJ City Developers by fraudulently creating two sale deeds dated 14.5.2008, in document Nos.2180 and 2181, in respect of the schedule mentioned properties belonged to the petitioner herein, have sold to the third parties. In this regard, the petitioner has lodged a complaint against the 1st respondent herein to the Superintendent of Police, Thoothukudi on 16.12.2009 and also sent a complaint to the District Registrar, Palayamkottai for cancelling the above sale deeds. In the meanwhile, pursuant to the G.O. Ms.No.530



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dated 13.07.2012, the 16th respondent herein/Competent Authority/District Revenue Officer, Chennai filed petition in O.A. No.9 of 2013 on the file of the the Special Judge under TNPID Act, 1997 seeking for sale and attachment of the schedule mentioned property belonged to the 1st respondent. After enquiry, the Court below allowed the O.A. No.9 of 2013 by its order dated 10.01.2014. Being aggrieved by the aforesaid order, the petitioner herein filed a petition in S.R. No.27 of 2016 under Section 151 CPC r/w Section 6(2) of TNPID Act on the file of the Special Judge under TNPID Act, 1997, Chennai to set aside the order of Sale and attachment dated 06.01.2014 passed in O.A. No.9 of 2013. Having heard the contention of the petitioner and perused the material of records, the Court below rejected the petition holding that despite the complaint against the 1st respondent was made before the Deputy Superintendent of Police, Thoothukudi and the District Registrar, Thoothukudi, with regard to fraudulent sale of the said properties, the petitioner has not taken any steps to approach any Civil Court for appropriate remedy and confirmed the order dated 10.01.2014 made in O.A. No.9 of 2013. Being aggrieved by the aforesaid order, the petitioner herein has filed the present Civil Revision petition to set aside the same.



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3. The learned counsel for the petitioner would submit that the learned Judge erred in law holding that the order passed by the Court below under Section 7(6) of the TNPID Act is final one and, the petition filed for setting aside the same is not maintainable, without analyzing the fact that the said order was passed against the true owner of the schedule mentioned property. Further, it has been submitted that no notice was given to the petitioner before passing the sale and attachment order dated 06.04.2014 believing that the petitioner herein had knowledge of the proceedings before the TNPID Court. While the schedule mentioned properties absolutely belonged to the petitioner herein, the sale and attachment order is an error apparent on the face of the record for the fraudulent act of the 1st respondent herein. Hence, he seeks to set aside the same.

4. The learned Government advocate appearing for the respondents 16 and 17 would submit that JBJ City Developers Limited is a finance company and Real Estate Company against which several depositors preferred complaints involving a sum of Rs.39.08 Crores. The Economic



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Offences Wing-II, Chennai registered FIR in Crime No.09 of 2009 and Crime No.01 of 2010 against them. Pursuant to the G.O. Ms.No.530 dated 13.07.2012, the 16th respondent herein/Competent Authority/District Revenue Officer, Chennai filed a petition in O.A. No.9 of 2013 on the file of the the Special Judge under TNPID Act, 1997 seeking for sale and attachment of the schedule mentioned property of the 1st respondent herein. After enquiry, the Court below allowed the aforesaid application by its order dated 10.01.2014. Thereafter, the same was upheld by order dated 09.03.2016 in S.R. No.27 of 2016 filed by the petitioner herein. Further, he submitted that since the case is under investigation of the police, Sattankulam as well as Registration authorities, the petitioner can avail remedy based on the outcome of the investigation if any before proper forum. Accordingly, he has filed the Status report before this Court.

5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the Respondents 16 and 17 as well as perused the material available on record.

6. On a perusal of the records, and also as per contention, the



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petitioner has not executed any sale deed in favour of the JBJ Developers or other third party knowingly in respect of the schedule mentioned property belonged to it. However, M/s.JBJ Developers by fraudulently creating two sale deeds dated 14.05.2008, has sold the said property to the third party. While the petitioner has given complaint before the Superintendent of Police, Thoothukudi, and District Registrar, Palayamkottai, in the meanwhile, the sale and attachment order was passed in respect of the suit property belonged to the petitioner herein by order dated 06.01.2014 without giving any notice to the petitioner herein. Against the aforesaid order, the petitioner filed S.R. No.27 of 2016 before the Special Judge under TNPID Act, 1997 wherein it was dismissed by order dated 09.03.2016 stating that except the patta granted in favour of the petitioner, no document such as title deeds and parent deeds have been produced by the petitioner herein. As the petitioner is claiming the suit schedule property without any proper valid title deeds except the Patta, this Court is not inclined to interfere with order dated 09.03.2016 passed by the Court below.

7. Having considered the facts and circumstances of the case and the submissions made by the learned counsel on either side, the petitioner is



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advised to give fresh complaint before the District Registrar, Tirunelveli, in respect of further action and also advised to give fresh complaint before the Sattankulam, Police Station, with regard to fraudulent sale of the JBJ City Developers with material documents and to take appropriate steps wherein the case is under investigation.

8. In the result, the Civil Revision Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed if any.

27.10.2022

Lbm

Index : Yes/No

Speaking Order : Yes/No



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Copy To:

1. The Special Judge under T.N.I.P.D. Act, 1997, Chennai-104
2. The Section Officer, V.R.Section
High Court, Madras.



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10

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T.V.THAMILSELVI, J.

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