



W.P(MD)No.25222 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2022

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P(MD)No.25222 of 2022

Hameed Ibrahim

...Petitioner

Vs.

- 1.The Additional Director General of Police,
Economic Offences Wing,
Police Training College Complex,
Ashok Nagar,
Chennai – 600 083.
- 2.The Inspector General of Police,
Economic Offences Wing,
Police Training College Complex,
Ashok Nagar,
Chennai – 600 083.
- 3.The Additional Superintendent of Police,
O/o.the Additional Superintendent of Police,
Economic Offences Wing - II,
3rd Floor, Rajaji Salai, Besant Nagar,
Chennai.
- 4.The Commissioner of Police,
O/o.the Commissioner of Police,
Alagarkovil Road, K.Pudur,
Madurai District.



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5.The District Revenue Officer,
O/o.the District Revenue Officer,
Madurai District.

6.The Inspector of Police,
Economic Offences Wing – II,
Madurai.
(Crime No.5 of 2020)

...Respondents

[Respondents 1 and 2 are *suo moto* impleaded as party to the Writ Petition vide order of this Court dated 15.11.2022 by SSKJ]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the Respondents No.1 to 3 to constitute a committee to identify, attached and disburse the maturity amount to the Depositors in respect of Crime No.5 of 2020, dated 22.12.2020 on the file of the Respondent No.4 by considering the Petitioner's representation, dated 14.07.2022.

For Petitioner	: Mr.T.Thirumurugan
For R1 – R4	: Mr.R.Meenakshi Sundaram Additional Public Prosecutor

ORDER

This Writ Petition had been filed seeking issuance of a Writ of Mandamus, to direct the Respondents No.1 to 3 to constitute a committee to identify, attach and disburse the maturity amount to the Depositors in



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respect of Crime No.5 of 2020, dated 22.12.2020 on the file of the Respondent No.4 by considering the Petitioner's representation, dated 14.07.2022.

2.The learned Counsel for the Petitioner submitted that the Petitioner seeking a Writ of Mandamus against the Respondents No.1 to 3, to form a committee in the light of the order passed by the learned Single Judge of this Court in CrI.O.P(MD)No.9790 of 2021, dated 15.09.2021.

3. On perusal of the order passed by the learned Single Judge of this Court in CrI.O.P(MD)No.9790 of 2021, it is found that when the accused 3 and 4 approached this Court seeking bail, the Petitioner intervened in the bail Petition as Intervenor by filing a Petition in CrI.M.P(MD)No.5780 of 2021 as a complainant/victim of crime. In the light of the Intervenor's objection, the learned Single Judge had passed the following order:-

"25.The Committee is expected to take effective steps to sell the properties of the accused for a higher consideration. The Committee shall assess the number of depositors, derive the amount of disbursement to each depositors upon consultation with all quarters and appropriate the sale proceeds and the amounts so



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deposited by the petitioners to the investors.

26.It is open to the Committee to disburse the amount to the investors by making the payments in the District Headquarters, upon identification of the depositors with the help of the investigating agency and after due verification of their identification and genuineness of the documents".

4.It is useful to extract Sections 3, 4 and 8 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997:-

3. Attachment of properties on default of return of deposits. -

Notwithstanding anything contained in any other law for the time being in force,-

(i) where upon complaints received from a number of depositors, that any Financial Establishment defaults the return of deposits after maturity, or fails to pay interest on deposit or fails to provide the service for which deposit has been made, or

(ii) where the Government have reason to believe that any financial establishment is acting in a calculated manner with an intention to defraud the depositors,

and if the Government are satisfied that such Financial Establishment is not likely to return the deposits or to make payment of interest or to provide the service, the Government may, in order to protect the interest of the depositors of such Financial Establishment, pass an ad-interim order attaching the money or other property alleged to have been procured either in the name of the Financial Establishment or in the name of any other person from and out of the deposits collected by the Financial Establishment, or if it transpires that such money or other property is not available for attachment or not sufficient for repayment of the deposits, such other property of the said Financial Establishment or the promoter, partner, director, manager or member of the said Financial Establishment or a person who has borrowed money from the Financial Establishment to the extent of his default or,



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such other properties of that person in whose name properties were purchased from and out of the deposits collected by the Financial Establishment, as the Government may think fit, and transfer the control over the said money or property to the Competent Authority."

4. Competent authority. - (1) *The Government may, by notification, appoint one or more authorities for such area or areas or such case or cases as may be specified in the notification hereinafter called "the Competent authority" to exercise control over the properties attached by the Government under section 3.*

(2) The Competent authority shall have such other powers as may be necessary for carrying out the purposes of this Act.

(3) Upon receipt of the order of the Government under section 3, the Competent authority shall apply within thirty days to the Special Court constituted under this Act for making the ad-interim order of attachment absolute and for a direction to sell the property so attached by public auction, and realise the sale proceeds.

(4) An application under sub section (3) shall be accompanied by one or more affidavits, stating the grounds on which the belief that the Financial Establishment has committed any default or is likely to defraud, is founded, the amount of money or value of other property believed to have been procured by means of the deposit, and the details, if any, of persons in whose name such property is believed to have been invested or purchased out of the deposits or any other property attached under section 3.

(5) The Competent authority shall make an application to any court having jurisdiction to try similar cases or deal with the subject matter pertaining to money or property belonging to a Financial Establishment or any person specified in section 3 situated within the territorial jurisdiction of that court for appropriate orders.

(6) For the purpose of crediting the dealing with the money realised by the Competent authority, he shall open an account in any Scheduled commercial bank.

8. Attachment of property of mala fide transferees. - (1) *Where the assets available for attachment of a Financial Establishment or other person referred to in section 3 are found to be less than the amount or value which such Financial Establishment is required to repay to the depositors and where the Special Court is satisfied by affidavit or otherwise, that there is reasonable cause for believing that the said Financial Establishment has transferred, (whether after the commencement of this Act or not), any of the property otherwise than in good faith and for consideration the Special Court may, by notice,*



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require any transferee of such property (whether or not he received the property directly from the said Financial Establishment) to appear on a date to be specified in the notice and show cause why so much of the transferee's property as is equivalent to the proper value of the property transferred should not be attached.

(2) Where the said transferee does not appear and show cause on the specified date or where after investigation in the manner provided in sub-section (5) of section 7, the Special Court is satisfied that the transfer of the property to the said transferee was not in good faith and for consideration the Special Court shall or order the attachment of so much of the said transferee's property as is in the opinion of the Special Court is equivalent to the proper value of the property transferred.

In the light of the provisions of the TNPID Act, 1997, the Writ Petition is found to be misconceived.

5.The learned Additional Public Prosecutor appearing for the Respondents submitted that investigation is still pending. He further submitted that A1 was arrested and released on bail. He was kidnapped by some persons, who lost money to him and he is alleged to have been killed. Therefore, CBCID investigation was ordered by this Court at the instance of the relatives/wife of the deceased A1. Now parallel investigation is going on. He further submitted that one other accused A5/Sundaresan committed suicide, A3 was murdered and A4 is in custody. The Additional Superintendent of Police, Economic Offences Wing – II is directed to pursue the matter and instruct the Investigation Officer to collect the details of the assets regarding the Directors of A1



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Company and to proceed accordingly to attach the properties and issue notification through Gazetted notification regarding attachment of the properties through ad interim attachment. Till date, that has not been done due to the indifferent attitude of the Investigation Officer in this case. Even though, the case was registered in the year 2020, two years had passed, the investigation is not completed. The apprehension expressed by the Petitioner herein is found justified involving amount of Rs.15 corers.

6. Therefore, the Additional Director General of Police, Economic Offences Wing and the Inspector General of Police, Economic Offences Wing, are *suo motu* impleaded as Respondents 1 and 2. The Respondents 1 to 4 already in the Writ Petition are re-ranked as Respondents 3 to 6. The Additional Director General of Police, Economic Offences Wing, is directed to nominate a Senior Officer not below the rank of Additional Superintendent of Police and to proceed further with the investigation and also to take steps to attach the properties of the Financial Establishment and its Directors/Partners as per the provisions of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997 and also directed to issue



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appropriate instructions to the Officers investigating the case under
TNPID Act not to be lethargic and to act promptly on the strength of the
Provisions of TNPID Act.

With the above directions, this Writ Petition stands disposed of.

No costs.

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vsd



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To

- 1.The Additional Superintendent of Police,
O/o.the Additional Superintendent of Police,
Economic Offences Wing -II,
3rd Floor, Rajaji Salai, Besant Nagar,
Chennai.
- 2.The Commissioner of Police,
O/o.the Commissioner of Police,
Alagarkovil Road, K.Pudur,
Madurai District.
- 3.The District Revenue Officer,
O/o.the District Revenue Officer,
Madurai District.
- 4.The Inspector of Police,
Economic Offences Wing – II,
Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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