



WEB COPY



C.M.A. No. 529 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2023

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

C.M.A. No. 529 of 2016

and C.M.P. No. 4418 of 2016

The Competent Authority-cum-
District Revenue Officer,
Vellore District, Vellore - 9.

... Respondent / Appellant

Vs.

1. Ananda Financiers Services,
406, 1st Floor, C.L. Road,
Vaniyambadi - 635 751.
Vellore District. (Rep. by petitioners 2 and 3)

2. V.T. Kavitha

3. P. Kavitha

... Petitioners / Respondents

Civil Miscellaneous Appeal filed under Section 11 of TNPID Act,
against the Judgment and Decree dated 12.01.2015 made in I.A. No. 119 of
2013 in O.A. No.9 of 2005 passed by the Special Judge under TNPID Act,
Chennai.

For Appellant : Mr. V. Jeevagiridharan
(Additional Government Pleader)

For Respondents : No Appearance



JUDGMENT

WEB COPY

This Civil Miscellaneous Appeal has been filed challenging the raising the order of attachment on the property described in item No.5 of the G.O.Ms.No.442, Home (Courts-IIA), dated 27.05.2003.

2. The case arising leading to the fact as follows:

3. In the year 2003, two financial institutions namely Anandha Financial Services and Anandha Finance have collected deposits from various subscribers and failed to return the deposit, which culminated into criminal complaint and based on the recommendation of the Inspector General of Police, Economic Offences Wing-II, Chennai, the Government of Tamil Nadu has passed G.O.Ms.No.442, Home(Courts-IIA), dated 27.05.2003 by invoking power u/s. 3 (44) of the Tamil Nadu Protection of Interest and Depositors (TNPID) Act, 1997, whereby attached various properties of the financial institutions in the name of one Kavitha to the extent of 2.02 acres comprised in S.No.318/2, 2.71 acres in S.No.318/3, 1.07 acres in S.No.321/4, 1.80 acres in S.No.311/3, 2.78 acres in S.No.307/2, 2.95 acres in S.No.304/2, 2.62 acres in S.No.303/1, 2.62 acres in



C.M.A. No. 529 of 2016

S.No.303/2, 2.62 acres in S.No.303/3, 2.62 acres in 303/4, 2.95 acres or 1.19.5 Hectares in S.No.304/1, 3.25 acres or 1.31.5 Hectares in S.No.299/A and 2.80 acres on 1.13.5 Hectares in S.No.299/1 totally measuring acres 34.89 cents Thumberi Village, Vaniyambadi Taluk, Sub-Registration District of Vaniyambadi, Vellore Registration District.

4. Subsequently, the Competent Authority has filed an original application in O.A.No.9 of 2005 seeking permanent attachment of the above listed properties. When the same was pending, the financial institutions have approached the Special Court for TNPID Act cases, Chennai in I.A. No.68 of 2010 for raising the attachment of the properties described in S.No.1 to 3 in the Government Order and the same was allowed and the attachment was made permanent. Thereafter, the petition in I.A. No.119 of 2013 was filed by the petitioners/ Financial Institutions seeking raising attachment of the property described in item No.5.

5. The financial institutions has come with the case that the police have investigated the case and filed a final report and the same has been taken on the file under two Calendar Cases such as C.C. No.9 of 2005 and



C.M.A. No. 529 of 2016

C.C. No.10 of 2005. The learned counsel appearing for the appellants has submitted that in C.C. No.9 of 2005 is concerned, the defaulted amount is Rs.42,00,160/- and in C.C. No.10 of 2005, the defaulted amount is Rs.4,18,012/-. Out of which, 90% of amount has been settled to the depositors and only the false claim made by some persons have not been settled and they have also not come forward to claim the deposited amount. The remaining amount yet to be settled is Rs.11,41,500/-, whereas the property attached is of value more than 1,01,26,050/-. The case has been completely compounded, the property under item 5 belongs to the third petitioner herein namely Kavitha and she is only the promoter of one Anandha Financial institution and there is no attachment of properties based on the claim against the firm namely Anandha Financial institution, hence prays to raise the attachment.

6. This petitioner was resisted by the Competent Authority on the ground that totally two cases in C.C. No.9 of 2005 and C.C. No.10 of 2005 are pending in which the amounts are yet to be settled to the 75 depositors for a sum of Rs.50,20,428/-. The Competent Authority has also contended that huge amount is yet to be settled to the depositors along with the interest,



hence, the raising of attachment would only hamper the trial as well as defeating the rights of the depositors from getting their deposit money along with interest.

7. The Special Court has considered the pleadings and also recorded the evidence of both sides, on the side of the petitioner, no oral evidence is adduced only documentary evidences in Ex.P.1 to P.3 were marked, on the side of the Competent Authority, R.W.1 was examined and Exs.R.1 to R.8. were marked. After analysing the evidence placed on record, the Special Court has ordered raising of attachment.

8. Aggrieved over the same, the Competent Authority has filed this appeal by challenging the raising of attachment. It is submitted by the counsel for the appellant herein that the Special Court has not considered the fact that at the time of passing of the orders, there were 75 depositors, who are yet to receive their amount and the persons who are yet to be repaid the amount are listed in Ex.R.8. The same has not been properly considered by the Special Court and prays to allow the appeal.

9. This Court has also called for the report from the Special Court



for the TNPID, Chennai regarding the stage of the cases and the number of persons who have received the compensation amount. The Special Judge has sent the report dated 15.09.2023 in which, he has stated that both the Calendar Cases were taken on the file against the two firms namely Anandha Finance and Anandha Finance Services based on the final report filed by the police as C.C. No.9 of 2005 and C.C. No.10 of 2005. In C.C.No.9 of 2005 is concerned, there are 39 depositors, who were examined as prosecution witness in trial and they also deposed that they have received their deposited money, based on the evidence recorded by the Special Court the C.C. No.9 of 2005 was disposed off as compounded between the parties. As far as C.C. No.10 of 2005 is concerned, in the final report, it is stated that 80 depositors have been listed out, out of which 46 depositors appeared before the Special Judge and stated that they have also received their deposited amount and their grievances are settled.

10. The remaining 34 depositors in spite of prosecution's efforts, they have not been appeared before the Special Judge. 34 depositors, except one Datchinamoorthy, appeared before the investigation Officer and reported that they have received their deposited amount from the financial



institutions, and their statement was also recorded by the Investigation Officer. During the trial, the Investigation Officer was examined as P.W.50 and he has deposed that 34 depositors have also received their money and with drawn their complaint and their examination of above depositors was dispensed with by prosecution. Already Rs.7,32,751/- was available with Competent Authority which is the money set apart for disposal to the borrowers. The Special Judge has directed the Competent Authority to disperse the amount to the above 34 persons if they come forward to claim the money, otherwise, the amount shall be credited to the Government Account, six months time was also given for depositing the above amount into the Government Account. Accordingly, the C.C.No.10 of 2005 is also disposed off.

11. The report of the Special Judge shows that both the criminal cases registered against the financial institutions/ accused herein has been disposed off on the ground that entire money have been settled to the borrowers on the ground that same were compounded. Hence, the continuous attachment of the properties is no longer required.



C.M.A. No. 529 of 2016

12. In the result, this Civil Miscellaneous Appeal is dismissed.

Consequently, connected civil miscellaneous petition stands closed. No cost.

03.10.2023

stn

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation Case: Yes/No

To:

1. The Special Judge,
(under TNPID Act Court),
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Chennai.

K. RAJASEKAR, J.



WEB COPY



C.M.A. No. 529 of 2016

stn

C.M.A. No. 529 of 2016

03.10.2023