



C.M.A.No.2256 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on :20.02.2023

Judgment Pronounced on :27.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2256 of 2021

and

C.M.P.No.12503 of 2021 and C.M.P.No.18661 of 2022

1. M/s.Sivaa Emu Farms,
Door No.3/286,
Rangapalayam, Nachipalayam Post,
Tiruppur, rep.by R4 and R6

2. M/s.Siva Poultry Farms,
Represented by Sivasenapathy

3. M/s.Siva Land Promoters
Represented by Sivasenapathy

4. Sivasenapathy
5. Mohanapriyadharshini
6. Padmavathi

... Appellants

vs.

The Competent Authority and
District Revenue Officer,
Tiruppur District.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 27.07.2021 in O.A.No.32 of 2016 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore.



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For Appellants : Mr.B.Kumarasamy

For Respondent : Mr.C.Jayaprakash

J U D G M E N T

The respondents 1 to 6 in O.A.No.32 of 2016 before the TNPID Court, Coimbatore are the appellants herein.

2. The respondent herein has filed an appeal in O.A.No.32 of 2016 before the TNPID Court for passing of final orders of attachment over the properties mentioned in G.O.Ms.No.344, Home(Police-XIX) Department, dated 11.04.2016 to make an interim attachment as final and to permit the sale public auction.

3. The short facts that are necessary for determination of the C.M.A as is under:-

By G.O.Ms.No.344 Home (Police-XIX) Department dated 11.04.2016, an interim order of attachment of the schedule of the property for the default committed by the accused A1 to A4 namely the respondents A1 to A4 under Section 3 of TNPID Act were passed.



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4. This O.A has also been taken up for making the interim attachment as a final attachment.

5. During the trial, P.W.1 was examined and Exs.P1 to P10 were marked and R.W.1 to R.W.3 were examined and Exs.R1 to R8 were marked.

6. On consideration of both oral and documentary evidence, the learned Special Sessions Judge, TNPID Court, Coimbatore come to the conclusion that 4th petitioner herein (4th respondent) before the Special Court has played vital role in R1 to R3 who is also liable to settle the dues of the depositors along with the other accused and also held that if the said property in G.O are not attached, there is every possibility that the same may be sold and hence, this Civil Miscellaneous Appeal.

7. Heard the learned counsel for the appellants and the respondent.



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8. The learned counsel for the appellants would contend that the attachment was made final without following the mandatory requirement of Section 7(4) and Section 7 (6) of TNPID Act,1997 and the property in question is ancestral property.

9. However, on verification of records, it appears that partition deed was filed before the Special Judge. The Special Court has rightly come to the conclusion that no properties of R1 to R3 were not identifiable. They have not bonafidely disclosed the other properties. The ancestral property can also be attached for the liability of R1 to R3, they comes within the first category of 3(ii) of the Act and hence, it need not be in the name of the financial institution namely accused 1 to 3 and therefore, the Tribunal has come to the conclusion that the property can be attached and also gave a factual finding that minors are not living with R.W.2 Vijayakumar and school fees are not paid by the R.W.2 who claims to be the guardian of the minor is totally silent about the auction and accordingly, disbelieved the version put forward by the R.W.2 (Vijayakumar/father of the 5th respondent) and ordered for final attachment of the property.



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10. (a) After hearing the learned Government Advocate and perusing the records, I find that C.C.No.30 of 2013 has also ended in conviction and the order of conviction and sentence passed in C.C.No.30 of 2013 is not challenged by way of appeal by the appellant herein also assumes significance. The convicted accused are also evading arrest and still absconding. No appeal has been filed (no criminal appeal has filed against the order passed by the Sessions Court holding that the charges are proved beyond reasonable doubt and accordingly, the conviction and sentence has been laid against them.

(b) Further records reveals that as against 354 depositors, only 54 depositors have been refunded sofar and the schedule property is the only property available for realization of the amount from the accused persons and for disbursement of the depositors and hence, I find that viewing from any angle the order passed by the learned special judge cannot be found fault with and in the absence of any valid point, I do not find any merits to interfere with the well considered order of the Sessions Judge.



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11. In the result,

(i) This Civil Miscellaneous Appeal is dismissed.

(ii) Consequently, this Court finds no merits in the Civil Miscellaneous Petition No.18661 of 2022 filed to implead the petitioners/third parties as respondents 7 to 11 in this appeal, accordingly, the same is dismissed.

(iii) The connected C.M.P.No.12503 of 2021 is closed.

(iv) There shall be no order as to costs.

27.02.2023

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation : Yes/ No

To

1.The Special Judge, Special Court under TNPID Act,
Coimbatore.

2. The Section Officer,
V.R.Section, High Court of Madras, Chennai.



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RMT.TEEKAA RAMAN, J.,

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