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C.M.A.No.2387 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

Civil Miscellaneous Appeal No.2387 of 2017

S. Raja alias alagarsamy

... Appellant/Petitioner

Vs.

1. The competent Authority and
District Revenue Officer, Tiruppur

2. M/s R.M. Wealth Creations India Pvt. Ltd.,
No.2/145, A.B.C. Ettuvattam, E. Muthulingapuram,
Panchayat, Naduvapatti Post,
Sattur Taluk, Virudhu Nagar District.
Zonal Office at :
R.M. Golden City, Madappur Post,
Palladam Taluk, Tiruppur District.
Branch Office at :
Door No.391, Thangam Plaa, 2nd Floor,
Next to Usha Theatre,
Dharapuram Road, Tirupur,
(Represented by R2 and R3)

3. K. Maruthupandian

4. Sivamurugan

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 to set aside the Fair and Final orders made in



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O.a.No.37 of 2016 dated 21.03.2017 on the file of Special Court under TNPID Act cases at Coimbatore.

For Appellant :M/s. K. Premkumar
For Respondent -1 :Mr. C. Jayaprakash

JUDGMENT

The Civil Miscellaneous Appeal has been filed by one of the Director of the Financial Institution challenging the order dated 21.03.2017 passed by the Second Respondent in O.A.No.37 of 2016 on the file of Special Court under TNPID Act cases at Coimbatore on 21.03.2017, wherein the Special Court has allowed the petition filed by the Competent Authority/District Revenue Officer, Tiruppur, seeking to disburse the amount lying in the custody of the competent authority to the depositors of the First Respondent financial Institution.

2. The Appellant is the second accused and the Financial Institution is the First Accused in C.C.No. 10 of 2015 on the file of Special Judge, Special Court under TNPID Act, Coimbatore.

3. The Financial Institution/First Respondent has failed to return the deposited amount of Rs.1,43,00,000/- to the depositors which resulted in registration of criminal case in Cr.No. 31 of 2021 on the file of Inspector of



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police, E.O.W, Coimbatore. During pendency of trial the financial institution/first respondent has remitted a sum of Rs. 1,43,00,000/- in favour of the competent Authority/DRO and with accrued interest, accordingly competent Authority filed a petition before the Special Court under TNPID Act cases at Coimbatore, for disbursement of the amount to the depositors in O.a.No.37 of 2016.

4. The Respondent/Accused 1 to 5 have filed counter before the Special Court and denied the statement that they are liable to pay 100 depositors as per the final report filed in C.C.No.10 of 2015 and they are having all the documents relating to the deposits made and the persons shown in the list of Serial Numbers: 9,10,30,31,32 and 61 have already been settled by the financial institutions. Similarly, some of the names of the depositors not correct, and prayed that a detailed enquiry is necessary before disbursement of the amount. The Special Court after considering the submissions and perusing the record passed the impugned order and relevant portion is as follows:

On perusal of Ex.P-1, which is the copy of FIR, E.P2 is the Copy of Charge Sheet, Ex.P.3 is the List of



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the complaints/Depositors to whom the amount has to be disbursed according to the petitioners Ex.P-4 to Ex.P.6 are all the xerox copies of the Deposit Receipts made in the name of Competent Authority/District Revenue Officer and Ex.P.7 is the Letter given by the Manager, Indian Overseas Bank, Veerapandi Privu Branch, Tiruppur regarding the deposits and Ex.p.8 is the Letter given by the second and third Respondents stating that they are having “ No Objection”. Hence the learned Special Public prosecutor, who contended that the petition isto be allowed.

In the result, the petition filed U/s 7(8) TNPID Act is hereby allowed an the competent Authority/DRO, Tiruppur is directed to disburse the amount lying in the custody of the competent Authority. However, it is open to the Respondents to make their representation along with the documents before the Competent Authority and the competent Authority has to satisfy himself on t7he basis of the documents produced by the Respondents and disburse the amount in accordance with the Law by getting undertaking Affidavit from the depositors for making the payment of the amount, in case if the claim made by the depositors are found to be false. There shall be no order as to cost.

6. Subsequently the present appeal has been filed by the Appellant who is the Second Respondent/second accused on the ground that the first respondent herein ought to have issued notices to all the interested persons before disbursing the amount, but without affording an opportunity to the



appellant and other persons, without considering production of proper documents, the Competent Authority disbursed the entire amount on a single day that too within two hours. Therefore, the act of the competent authority is void and prays to set aside the order passed by the Special Judge.

7.The learned counsel for the appellant would submit that there is a clear direction given to the competent Authority to consider the representation if any received from the respondent/accused. With regard to the objections for the disbursement of the amount, no such opportunity was given to the respondent The trial of the criminal case is also in the final stage and at that stage, the order passed by the Court for disbursement of amount is unwarranted. He further submits that the no objection letter/Ex.P-8 given by the second and third respondents before the Special Court is only with regard to the refund of the amount to those who have not yet settled and not to the persons who have already settled by the investors.

8.Per contra, the learned Government Advocate submitted that by following the directions issued in the impugned order, the amounts have been distributed to all the depositors. This fact is also been placed before the



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Special Court and the finding relating to disbursement of the amount incorporated in the Judgment passed in C.C.10 of 2015 dated 22.03.2022.

He has also produced a copy of the Judgment passed by the Trial Court and prays to dismiss the appeal.

9.Admittedly there is a direction given by the Special Judge to the Competent Authority/DRO directing him to disburse the amount lying in his custody. However, Appellant permitted to give representation if any for identifying the depositors and to avoid the false claims. It is contended that without affording an opportunity to the said representation, within a short time, the amounts have been distributed to the depositors and thereby the action of the Competent Authority is not proper. This appeal has been filed Challenging the order of the Special Judge dated 21.03.2017 permitting the First Respondent/Competent Authority to disburse the amount lying in his custody. This impugned order is passed based on the petition filed by the Competent Authority/DRO and “ No Objection Letter” Submitted on behalf of the Respondents including this appellant herein.

10.The Special Judge has also given liberty to the Appellant herein to



give representation to the competent authority. The grievance raised in this appeal is the manner in which the order of the Special Judge is being enforced. The appellant has no grievance in the impugned order allowing the competent authority to disburse the money to depositors.

11. Now, the Trial of the Criminal case is concluded and the Judgment of the Special Court in C.C.No.10 of 2015 dated 22.03.2022 shows the list of depositors who have received their deposit amount in Paragraph No.43 in compliance of impugned order. After recording report of the competent authority and after recording the evidence of depositors, the Trial Court has convicted the accused and also imposed sentence, which shows that the accused persons were found guilty, for the charges framed against them.

12. The Judgment of the Special Court cited supra, shows that the impugned order directing the Competent authority/DRO to disburse the amount to depositors already complied with and challenge of the impugned order becomes now infructuous. The procedures adopted by competent authority to comply the impugned order attracts different cause of action and



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same could not be considered in this appeal.

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13. Accordingly this Court is of the view that there is no merit in this appeal and the same is dismissed with liberty to the appellant to work out the remedy in accordance with law. There shall be no order as to costs.

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Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No

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3. The Special Court under TNPID Act cases at Coimbatore.

K.RAJASEKAR,J.

smn

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