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W.A.(MD) No.1500 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

**W.A.(MD) No.1500 of 2023
and
C.M.P.(MD) Nos.11525 & 11533 of 2023**

N.Vanchimuthu

... Appellant

-VS-

1.S.Akalya

2.The State of Tamil Nadu
rep.by the Principal Secretary
Department of Home, Secretariat
Chennai-9

3.The Commissioner of Land Administration
O/o.The Commissioner of Land Administration
Chepauk, Chennai-5

4.The District Revenue Officer / Competent Authority
O/o.The District Revenue Officer
Dindigul District



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5.The Deputy Superintendent of Police
Economic Offence Wing
Dindigul District

6.The District Registrar
O/o.The District Registrar
Dindigul District

7.M.Ravichandran

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 15.03.2013, passed in W.P.(MD) No.3989 of 2013, on the file of this Court.

For Appellant : Mr.V.Raghavachari, Senior Counsel
assisted by Ms.T.Kokilavane

For Respondents : R1 – Tapal Returned
Mr.M.Lingadurai
Special Government Pleader for R2 to R4 & R6
Mr.M.Veerenthiran
Government Advocate (Cr1.Side) for R5
Mr.N.L.Rajah, Senior Counsel
assisted by Ms.M.Benazir Begum for R7



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J U D G M E N T

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

This intra-court appeal has been instituted against the order dated 15.03.2023 passed in W.P.(MD) No.3989 of 2013.

2. The seventh respondent in the writ proceedings is the appellant before us. The prayer in the writ proceedings was to direct the respondents 2 & 3 therein to declare the sale deed dated 11.08.2003 (Registration No.1546) executed by the sixth respondent in favour of the seventh respondent therein as void as per Rule 7 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Rules, 1997.

3. The undisputed facts between the parties are that the subject property was under attachment by the Government under the provisions of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997 (hereinafter, referred to as “the TNPID Act”) vide G.O.Ms.No.1362, Home (Courts IIA) Department, dated 18.12.2000. During the pendency of the criminal case before the Special Court constituted under the TNPID Act, the sale between the appellant and the seventh respondent



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took place. The seventh respondent herein, namely, M.Ravichandran was running a financial institution in the name and style of “M/s.Ravi & Co., Bankers” and since the complaint was filed against the financial institution, the matter was referred to the Special Court for adjudication. Pursuant to the order of attachment issued by the Government on 18.12.2000, under Section 3 of the TNPID Act, the Special Court proceeded with the adjudication and during the pendency of the adjudication, the sale took place on 11.08.2003.

4. Thus, dispute arose, whether the sale is valid or not. We are not inclined to adjudicate the said dispute, since the parties have already instituted several legal proceedings and numerous court orders have been passed and the Honourable Supreme Court has made an observation that the parties are to be relegated to approach the competent Civil Court for the purpose of resolving the issues, which have already been done at the instance of the appellant herein by instituting a civil suit in O.S.No.276 of 2017, on the file of the Principal District Court, Dindigul, which is sub judiced.

5. Mr.V.Raghavachari, learned Senior Counsel, assisted by Ms.T.Kokilavane, learned counsel on record for the appellant, mainly



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contended that the appellant passed on the sale consideration to the seventh respondent apart from making payments in advance. The appellant, pursuant to the advice of the seventh respondent, repaid the amount to the depositors in entirety. Therefore, the seventh respondent executed a sale deed in favour of the appellant. Thus, the seventh respondent now cannot turn around and say that he had not received the sale consideration at this length of time. The appellant has produced all the receipts before the TNPID Act to establish that the sale consideration was passed on to the seventh respondent. That being so, the order impugned in this writ appeal would offend the rights of the appellant. Thus, the appellant is constrained to prefer this writ appeal.

6. Mr.N.L.Rajah, learned Senior Counsel, assisted by Ms.M.Benazir Begum, learned counsel on record for the seventh respondent, objected the above contentions of the learned Senior Counsel for the appellant by stating that the seventh respondent had not received the sale consideration. It is a disputed fact between the parties and the seventh respondent is in possession of evidence to establish that the sale consideration was not paid. In respect of the said contention, learned Senior Counsel would solicit our attention with reference to the orders passed by the Special Court



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under TNPID Act and the appeal order passed in the civil miscellaneous appeal and the order passed by the Honourable Supreme Court. However, the observations made in all these orders are based on certain pleadings and copies of documents and such disputed facts between the parties cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. As far as the order passed by the Special Court under TNPID Act is concerned, the attachment was made absolute and the appeal filed by the appellant was dismissed, since there were dues to be paid to the depositors.

7. Several observations made by the Honourable Supreme Court and the C.M.A. Court would be sufficient to form an opinion that the disputed facts between the parties are yet to be finalized. This Court cannot go into those facts, which all are to be adjudicated in the manner known to law.

8. The Honourable Supreme Court, by order dated 28.08.2023 in S.L.P.(C) Nos.17332-17333 of 2023, has passed the following order:

“2. We have considered the rival submissions and find that there is no infirmity with the impugned judgment and the present Special Leave Petitions are devoid of merit. Accordingly, the same are dismissed.



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3. However, we notice that the petitioner has already filed OS No.276 of 2017 which is pending before the Principal District Court, Dindigul. It was observed in the impugned judgment that the petitioner can work out his remedy in the said pending suit.

4. Considering the above, even while dismissing the Special Leave Petitions, we deem it appropriate to say that insofar as the orders passed in the proceeding pertaining to attachment are concerned, they should be treated to be only for these proceedings and should have no bearing in the pending suit. It is therefore ordered that the OS No.276 of 2017 should be decided on its own merits on the basis of the evidence/materials adduced by the parties.

5. Pending application(s), if any, stand closed.”

9. Pertinently, the order impugned before us was passed by the learned Single Judge on 15.03.2023 and thereafter several orders were passed by the TNPID Court, C.M.A. Court and the Honourable Supreme Court and also by this Court in other writ petitions. When several legal proceedings were instituted and the Courts have passed orders, considering the facts and



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circumstances, question arises, whether the order of the year 2013 is to be now revisited or not. Curiously, this appeal has been filed in the year 2023 after a lapse of about ten years from the date of the order passed by the learned Single Judge and since the delay has been condoned, we are not inclined to go into those issues. But, the fact remains that the appeal was instituted after a lapse of ten years and more so, after passing of the orders by the Special Court and C.M.A.Court.

10. The learned Senior Counsel appearing for the appellant would urge that the writ appeal has been instituted only to remove the ambiguity arose on account of the findings made in the impugned order dated 15.03.2013. Therefore, it is unnecessary for us to go into those disputed facts, which all are adjudicated between the parties in several proceedings. The suit in O.S.No.276 of 2017 filed by the appellant is pending on the file of the Principal District Court, Dindigul.

11. The power of judicial review under the Constitution of India cannot be expanded for conducting a roving enquiry or to adjudicate the disputed facts, which all are to be done by examining the evidences and



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documents available on record, including the oral evidence. The complex nature of facts and circumstances explicitly portrayed in the present litigation, would be sufficient for not entertaining this writ appeal. But, we would clarify that the parties are at liberty to establish their respective claims before the civil suit already instituted in O.S.No.276 of 2017, on the file of the Principal District Court, Dindigul. However, it is made clear that the Civil Court is expected to consider the issues between the parties uninfluenced by the findings made by the learned Single Judge in the impugned order dated 15.03.2013 in W.P.(MD) No.3989 of 2013.

12. At this juncture, the learned Senior Counsels made a request that the suit in O.S.No.276 of 2017 may be directed to be disposed of expeditiously.

13. Accordingly, we request the learned Principal District Judge, Dindigul, to dispose of the suit in O.S.No.276 of 2017 as expeditiously as possible. It is needless to state that unnecessary adjournments are to be avoided and the Trial Court need not grant adjournments to the parties on flimsy grounds.



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14. With the above liberty, the writ appeal is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.]

[R.K.M., J.]

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Principal Secretary,
Department of Home,
State of Tamil Nadu,
Secretariat
Chennai-9.
- 2.The Commissioner of Land Administration,
O/o.The Commissioner of Land Administration,
Chepauk, Chennai-5.
- 3.The District Revenue Officer /
O/o.The District Revenue Officer,
Dindigul District.
- 4.The Deputy Superintendent of Police,
Economic Offence Wing, Dindigul District.
- 5.The District Registrar,
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