



C.M.A.(MD).No.26 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.26 of 2019

and

C.M.P(MD) No.438 of 2019

A.Palraj

... Appellant/9th Respondent
/ L.R of R6

-vs-

1. The Competent Authority,
Special District Revenue Officer,
TANPID Act,
Madurai.

... 1st Respondent/Applicant/
Petitioner

2. The Srivilliputtur Small Savings,
D.No.10/140,
Araichipatti Pillayar Kovil Street,
Srivilliputtur Town,
Virudhunagar District.
Represented through Sithiraputhiran,
D.No.10/140,
Araichipatti,
Pillayar Kovil Street,
Srivilliputtur Town,
Virudhunagar District.

... 2nd Respondent/Defaulted
Financial Establishment

(Memo dated 30.01.2024 in USR No.
3435 is recorded, to the effect that R2 is
given up vide order of this Court dated
29.02.2024 made in C.M.A(MD) No.26
of 2019)



C.M.A.(MD).No.26 of 2019

WEB COPY 3. Sithiraputhiran (died)

(Memo recorded as R3 died and R4 to R6 are the Legal Heirs of R3, as per order of this Court dated 07.03.2018 in C.M.P(MD) No.9993 of 2017 in C.M.A.SR.(MD) No.42102/17)

4. Jeyalakshmi

5. Muthukumar

6. Rajaguru

... Respondents 3 to 6/
Respondents 2 to 5/ Accused/
Seller

Alagar Ramanujam (Died)

... 6th Respondent/Purchaser

7. Valliammal (died)

8. Muruganantham

9. Govindaraj

... Respondents 7 to 9/
Respondents 7, 8 and 10/
Lrs of R6

Memo dated 14.10.2019 in USR No. 42766, is recorded, as R7 died, and sole appellant, R8 and R9, who are already on record, are recorded as Legal heirs of the deceased R7 vide order of this Court dated 29.01.2024 made in CMA (MD) No.26 of 2019)

PRAYER: Civil Miscellaneous Appeal filed under Section 11 of the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act 1997, as against the fair and decreetal order made in O.A.No.1 of 2015, dated 30.11.2016, on the file of the Special Court under the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act 1997, Madurai.



C.M.A.(MD).No.26 of 2019

WEB COPY

For Appellant : Mr.M.Thirunavukkarasu

For R-1 : Mr.T.Villavankotha
Additional Government Pleader

For R-2, R4 to 6,
R-8 and R9 : No appearance
R3 and R7 : died

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the ninth respondent in O.A.No.1 of 2015, on the file of the Special Court under the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act 1997, Madurai, challenging the order dated 30.11.2016.

2. According to the learned counsel appearing for the appellant, the respondents 2 to 5 in O.A.No.1 of 2015 have established the financial establishment under the name of Srivilliputtur Small Savings and due to default, an FIR came to be registered under the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act 1997, as against the financial establishment as well as the owners of the said financial establishment.



C.M.A.(MD).No.26 of 2019

WEB COPY

3. According to the learned counsel appearing for the appellant, the appellant's father who was arrayed as 6th respondent in O.A.No.1 of 2015, has purchased the property from the second respondent in the application on 17.12.2004. FIR has been registered as against the financial establishment in Crime No.4 of 2005. According to him, his father is a *bonafide* purchaser for valuable consideration. Thereafter, he had passed away and his legal heirs have been impleaded as the respondents 7 to 10 in the above application.

4. The competent authority under the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act 1997, has passed an order of provisional attachment and an application was filed for making the order of attachment as absolute. When the said application was listed for hearing, the counsel on record, namely, one Nagendran had met with an accident and he could not appear before the Court to file the counter. Therefore, without hearing the ninth respondent, the order came to be passed making the order of attachment absolute, on 30.11.2016. Challenging the said order, the present appeal has been filed.



C.M.A.(MD).No.26 of 2019

WEB COPY

5. The present appeal was also filed with a delay of 298 days in filing.

In the affidavit in C.M.P (MD) No.9993 of 2017 to condone delay, it was specifically mentioned that the counsel on record had met with an accident and he was hospitalized and therefore, counter could not be filed. Accepting the said contention, this Court has condoned the delay, vide order dated 05.12.2018. Therefore, this Court is of the view that one more opportunity should be granted to the appellant/ninth respondent to place his counter on record and to get an order on merits.

6. In view of the above said facts, the order impugned in the appeal is set aside and the matter is remanded back to the file of the Special Court under the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act 1997, Madurai. The appellant herein shall file a counter on or before **31.07.2024**. Thereafter, the Special Court is directed to dispose of O.A.No.1 of 2015 on merits and in accordance with law after giving due opportunity to all the parties.



C.M.A.(MD).No.26 of 2019

WEB COPY

7. Accordingly, this Civil Miscellaneous Appeal stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

20.06.2024

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

To

1. The Special Court
Under the Tamil Nadu Protection of Interest of Depositors
(In Financial Establishment) Act 1997,
Madurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD).No.26 of 2019

R.VIJAYAKUMAR,J.

ebsi

C.M.A(MD)No.26 of 2019

20.06.2024