



C.M.A.(MD).No.904 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.M.A.(MD).No.904 of 2021
and C.M.P.(MD).Nos.8495 of 2021 and 3945 of 2022

1.Krishna Bankers,
Kolvel,
Kanniyakumari District.

2.Madhavan

3.Sunumadhavan ... Appellants/Respondents 1 to 3

Vs.

1.The Competent Authority/
District Revenue Officer,
Kanniyakumari District.

... 1st Respondent/Appellant

Throwpathy (Died)

2.Sivakumar

3.Visweswari @ Prabha

... Respondents 2 & 3/
Respondents 5 & 6

PRAYER : Civil Miscellaneous Appeal is filed under Section 11 of the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997, to set aside the Judgment and Decree, dated 27.11.2018 passed in O.S.No.10 of 2016, on the file of the Special Court under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, Madurai.



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For Appellant : Mr.R.J.Karthick
For Respondents : Mr.D.S.Nedunchezian for R1
R2 & R3 – Given up.

JUDGMENT

This appeal has been filed to set aside the Judgment and Decree, dated 27.11.2018 passed in O.S.No.10 of 2016, on the file of the Special Court under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, Madurai.

2.The facts in brief:

The competent authority under the provision of Tamil Nadu Protection of Interest of Depositors Act, filed a petition before the Special Court seeking order of making the ad-interim attachment absolute and permitting him to sell the property in the public auction with the following averments: On receipt of complaint from the depositors against M/s. Krishna Bankers, a financial establishment, that they failed to return the depositors after maturity, the DSP, EOW II, Nagercoil investigated the matter. In the meantime, by the order dated 14.12.2011 in G.O.Ms.No.854, Home (Pol-XIX) Department, issued an interim order of attachment of immovable properties belongs to Madhavan and other



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partners. Krishna Bankers brought under the control of the competent authority namely District Revenue Officer, Kanniyakumari. Further steps were taken as per the provisions prescribed under the relevant Rules. From the enquiry conducted, it was found that a case was made out and final report was filed, taken cognizance by the Special Court for the offences punishable under Sections 420 of IPC and Section 5 of the TANPID Act. So the interim order of attachment must be made absolute.

3.The 6th respondent only filed the counter, who is arrayed as third respondent in this matter. No counter was filed by this appellant and after hearing both sides, the special Court recorded a finding that ad interim order of attachment has been made absolute, in view of the non settlement of dues to the depositors. All the formalities have been properly complied by the competent authorities. The counter raised by the 6th respondent in the man petition was rejected.

4.The concluding portion reads as under:

“14.The Properties were interimly attached for the welfare of the Victim/depositors. The intention of the legislative is that the Victim to be equated with



their deposit money atleast from the sale proceeds of attached properties. In order to fulfil the liabilities of the accused towards the Victim/depositors the properties are attached. Here the accused has to settle 131 depositors to the tune of Rs.2,02,39,832/-. Therefore, the properties, intermly attached can be made absolute.”

5.In view of the said finding the properties mentioned in the petition, except item No.6, the ad-interim attachment was made absolute, in respect of other properties. Against which, this appeal is preferred by the appellant, who are the respondents 1 to 3 in the main petition. The learned counsel for the appellant would submit that most of the depositors have been settled by them, only a portion of the amount remains to be settled. So permission may be granted to them to sell one of the attached properties. So that the entire amount can be deposited. But, such sort of contention cannot be raised before this Court. If the petitioner wants to settle the issue, either they can approach the concerned authority or the concerned Court itself seeking permission to sell the property by raising the attachment. As mentioned above, no such plea was raised by the appellant before the trial Court. For the first time



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such a plea has been raised. The other grounds in the petition itself, is not maintainable, in view of the fact that they have not made any objection before the trial Court.

6.Considering the limited request made by the appellant, liberty is granted to them to approach the concerned trial Court itself for appropriate relief. If the petition is filed, then the trial Court shall dispose the same on its own merits, within a period of one month, thereafter.

7.With the above said liberty and direction, this civil miscellaneous appeal is Closed. No costs. Consequently, connected miscellaneous petitions are closed.

01.08.2024

Index : Yes / No
Internet : Yes / No
TM

To

1.The Judge, Special Court under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997, Madurai.

2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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