



C.M.A.(MD) No.1612 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

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Joshitha.
Represented by her Power of Attorney
Holder Mr.Jochim.
Appellant

...

VS.

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Home Department,
Chennai.

2.The State
Represented by Deputy Superintendent of Police,
Economics Offences Wing-II,
Kanyakumari.

3.The Competent Authority,
District Revenue Officer,
Kanyakumari District,
Nagercoil.

4.The District Registrar,
Kanyakumari District,
Nagercoil.



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5.The Sub Registrar,
Eraniel Sub-Registration Office,
Eraniel,
Kanyakumari District.

6.M/s.PDF Estates (India) Limited,
Represented by its Managing Director,
Thangam Building,
Bharathiar Street,
Marthandam,
Kanyakumari.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 11 of the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997, against order dated 29.03.2022 in O.A.No.01 of 2021 in C.C.No.08 of 2016 on the file of the Special Court under TNPID Act, 1997, Madurai.

For appellant : Mr.Prem Ayyathurai
for M/s.Ajmal Associates

For Respondent
For R1 to R5 : Mr.D.Sadiq Raja
Additional Government Pleader
For R6 : No appearance

J U D G M E N T



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This Civil Miscellaneous Appeal has been preferred against the order dated 29.03.2022 made in O.S.No.1 of 2021 in C.C.No.8 of 2016 on the file of the Special Court under TNPID Act, 1997, Madurai.

2. Joshitha, through her Power of Attorney holder/her father Jochim, filed an application under Section 7(3) of TNPID Act, 1997, to cancel ad interim attachment passed by the State Government in G.O.No.95, Home (Police XIX), dated 27.01.2017.

3. The respondent, namely, the State filed its counter by stating that a financial establishment, namely, Pamara Leasing Limited, which was changed its name thereafter as PDF Estates (India) Limited, registered under the Registrar of Companies, Chennai under the provisions of Companies Act and the said company was jointly operated by the accused persons A2 to A6. Raphael (A2), Amuthan (A3), A.Ramadoss (A4), Viswasam (A5) and Bensiraj (A6) were the Managing Directors of the company. They were introducing various attractive schemes, like, they would invest the amounts into the lands, plots in Trichy, Pudukottai,



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Tuthookudi and Tirunelveli Districts and in turn, they assured to give higher rate of interest to the said deposits. Upon the false promise given by the accused persons, 3085 innocent depositors have invested their hard earned money to the tune of Rs.9,45,44,890/- and all the accused persons wilfully did not return the said deposited amounts to the depositors. Based on the complaint given by one Kanagam, W/o.Francis, a case has been registered on 06.08.2015 in Cr.No.01 of 2015 in EOW-II, Nagercoil under sections 406, 420, 120(b) of the Indian Penal Code and section 5 of the Tamil Nadu Protection of Interests of Depositors (in Financial Establishment) Act, 1997. The accused persons A2 to A5 were released on Anticipatory Bail in CrI.O.P.No.23166/2016 dated 09.12.2016.

4. The learned counsel for the appellant/petitioner would state that she purchased the property on 22.08.2016 in Survey No. 577/8 measuring 0.03.0 ares (7 cents) situated at Nelivilai in Kalkulam Taluk, Kanyakumari District, from the legal heirs of one Malliga for valuable consideration and she is a *bonafide* purchaser and it was further contended that she came to know that the



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property was attached and hence, sought to cancel the ad interim attachment made by the State Government in G.O.No.95, Home (Police XIX), dated 27.01.2017.

5. Upon consideration, the Trial Court dismissed the petition holding that the order of attachment was made only after issuance of notice to the accused, including the persons interested in the property and it has also been observed that even the petitioner is a *bone fide* purchaser, in order to settle the amounts to the depositors, the property can be attached. Against this order of dismissal, the present Civil Miscellaneous Appeal has been preferred by the purchaser/appellant.

6. It appears that the appellant purchased the said property on 22.08.2016 from the legal heirs of Malliga, who purchased the said property in the year 1997. Based on the complaint given by Kanagam W/o.Francis, the case was registered in Crime No.1 of 2015 on 06.08.2015 under Sections 406, 420 and 120(b) of I.P.C. and under Section 5 of Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997. In that case, A2



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to A5 were released on Anticipatory Bail in Crl.O.P.No.23116 of 2016 dated 09.12.2016.

7. The appellant has purchased the said property from the second accused, namely, Raphael, who is none other than husband of deceased Malliga. The second accused, namely, Raphael, was one of the Directors of the Pamara Leasing Limited and thereafter, the name of the company was changed as PDS Estates (India) Limited, registered under the Companies Act.

8. It was contended by the learned Government Advocate for the respondent Nos.1 to 5 that the accused introduced various attractive schemes, like, they were investing the amount into the lands, plots in Trichy, Pudukottai, Thoothukudi and Tirunelveli and assured to give higher rate of interest to the depositors. Upon the false promise given by the accused persons, 3085 innocent depositors had invested their hard earned money to the tune of Rs. 9,45.44,890/-.

9. A case was registered against the accused No.2/Raphael



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on 06.08.2015 itself and the some of the accused including second accused/Raphael were released on Anticipatory Bail on 09.12.2016. On the date of the said G.O., the property, namely, Survey No.577/8 measuring 0.03.0 ares (7 cents) situated in Nelivilai in Kalkulam Taluk, Kanyakumari, under patta No.2500 was still standing in the name of Malliga.

10. G.O.No.95 Home (Police XIX), dated 27.01.2017 was issued by ordering ad interim attachment of the immovable properties. The third item given in the said G.O. is the petition mentioned property. The main object of the enactment of the abovesaid Act is to protect the interests of the depositors on certain contingencies.

11. In order to have a clear understanding Section 3 of TNPID Act is extracted hereunder:

“3. Notwithstanding anything contained in any other law for the time being Attachment in force (i) where, upon complaints received from a number of depositors, that any Financial Establishment defaults the



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return of deposits. after maturity, or

(ii) where the Government have reason to believe that any Financial establishment is acting as a calculated manner with an intention to defraud the depositors;

and if the Government are satisfied that such Financial Establishment is not likely to return the deposits, the Government may, in order to protect the interests of the depositors of such Financial Establishment, pass an ad-interim order attaching the money or other property alleged to have been procured either in the name of the Financial Establishment or in the name of any other person from and out of the deposits collected by the Financial Establishment, or if it transpires that such money or other property is not available for attachment or not sufficient for repayment of the deposits, such other property of the said Financial Establishment or the promoter, manager or member of the said Financial Establishment, as the Government may think fit and transfer the control over the said money or property to the Competent authority.”



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12. Section 3 of the TNPID Act was substituted by Tamil Nadu Act 30 of 2003 with effect from 10.11.2003. It empowers the State Government to pass an order of ad interim attachment of the properties in respect of the financial establishments committed default in returning the money deposited or failed to do the needful. In the process of the attachment, if the Government feels that if the value of the properties attached is not sufficient for the repayment of the depositors, the properties of the partner, director, manager or owner/principal of the financial establishments can also be ad interimly attached by the Government. The fact that the case was registered against the second accused in the year 2015 itself for an amount of Rs.9,45,44,890/- along with other accused, in which some of them were granted Anticipatory Bail only in the year 2016 and in addition to the fact that after the purchase of the same, the patta in respect of the said property stands in the name of second respondent's wife deceased Malliga would go to show that the claimant is not a *bona fide* purchaser and in order to defeat the depositors only, hurriedly the sale was effected by the second accused. Therefore, based on the G.O.No.95 Home (Police XIX), ad interim attachment having been passed by the Government, the



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fact that the appellant, who is the relative of the second accused/Raphael, is a bonafide purchaser, is not acceptable. I do not find any good reason to interfere with the orders of the Trial Court.

13. Based on the aforesaid discussions and observations this Civil Miscellaneous Appeal stands dismissed. No costs.

29.11.2024

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

To

1.The Special Court under TNPID Act, 1997, Madurai.

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



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R.KALAIMATHI,J

apd

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