



C.M.A.(MD) No.1174 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1174 of 2022

and

C.M.P.(MD) Nos.11965 of 2022 & 7346 of 2024

I.R.J.Ilango
S/o.Irudhayaraja

... Appellant

Vs.

1.P.Balasubramanian
S/o.Palavannam Pillai

2.Jothi
W/o.Gopalakrishnan

3.V.Muniyandi
S/o.Veeraian

4.Jeyaram
S/o.Sadaiyandi

5.Blessing Agro Farm India Limited Company,
1K, Kajiyar Complex, North Gate,
S.S.Colony, Madurai-10.

6.Joseph Jeyaraj

7.Christopher
S/o.Davidram



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8.Palanisamy
S/o.K.Ponnaiah

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9.The District Revenue Officer,
Collector Office Building,
Nearly Anna Bus Stand,
Madurai-7.

10.The Inspector of Police, EOW,
Economic Offence Police Station,
Viswanathapuram, Madurai-1.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 11 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997 praying to set aside the order dated 31.03.2021 passed in O.S.No.2 of 2020 on the file of the Special Court under TNPID Act Cases, Madurai.

For Appellant	: Mr.G.Prabhu Rajadurai
For R1	: Mr.M.S.Saravanakumar
For R2 to R4	: Mr.A.Saravanakumar
For R5 & R6	: Mr.R.Manickaraj
For R7	: Mr.C.Gangai Amaran
For R8	: Mr.G.Saravanakumar
For R9 & R10	: Mr.R.Baskaran, Additional Advocate General assisted by Mr.V.Omprakash, Government Advocate



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J U D G M E N T

WEB COPY The above appeal has been filed challenging the order passed by the Special Court under TNPID Act Cases, Madurai [hereinafter referred to as 'TNPID Court'] in the petition filed by the first to fourth respondents herein under Section 8 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997 [hereinafter referred to as 'TNPID Act'].

2. This appeal arises under the following circumstances:

- (a) The first to fourth respondents had deposited money in a firm called 'Blessing Agro Farm India Limited Company', the fifth respondent herein, which had allegedly collected deposits from several depositors and failed to repay the same in time.
- (b) On a complaint given by some of the depositors, a case was registered against the fifth respondent in Crime No.6 of 2018, and the final report was filed on 19.09.2019.
- (c) Admittedly, there were more depositors, and some more complaints are pending investigation before the Economic Offence Wing, Madurai.



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- (d) After the registration of the FIR, the fifth respondent had transferred one of its properties in favour of the appellant herein by a Sale Deed dated 26.11.2018 for a sale consideration of Rs.45,00,000/-.
- (e) The first to fourth respondents had filed a petition under Section 8 of the TNPID Act before the TNPID Court, primarily on the ground that the transfers were made in not good faith and for a nominal sale consideration, and hence, they would have to be attached, as they were *mala fide* transfers.
- (f) The appellant had filed a counter, stating that they were engaged in the construction business under the name 'Blessy Construction Company' and had constructed a corporate office for the financial establishment, the fifth respondent herein; that a sum of Rs.1,05,41,683/- was due to the appellant towards the said construction, and therefore, the sale made in favour of the appellant for a sum of Rs.45,00,000/- cannot be considered as a *mala fide* transfer, and prayed for the dismissal of the application.
- (g) Before the TNPID Court, the first to fourth respondents examined P.W.1 and marked Exs.P1 to P4, and the appellant examined R.W.1 and marked Exs.R1 to R7.



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(h) The TNPID Court, after considering the evidence on record, held that the transfer of property in favour of the appellant by the fifth respondent herein was otherwise than in good faith and hence liable to be attached under Section 8 of the TNPID Act.

3. The learned counsel for the appellant, primarily, contended that in order to invoke Section 8 of the TNPID Act for attachment, the TNPID Court has to first come to a conclusion that the properties of the financial establishment already available for attachment under Section 3 of the TNPID Act is less than the amount or value that such financial establishment is required to pay to the depositors and that there is no such finding by the TNPID Court; and that the finding of the TNPID Court that the transfer of property in favour of the appellant was otherwise than in good faith is contrary to the evidence on record and prayed for setting aside the impugned order.

4. The learned counsel for the fifth respondent, per contra, submitted that the TNPID Court had correctly concluded based on the evidence on record that the transfer made in favour of the appellant is in good faith and no interference is called for.



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5. The learned Additional Advocate General appearing for the ninth and tenth respondents, per contra, would submit that the value of the properties, which have been attached so far and which are available for attachment, is very much less than the amount due by the financial establishment to the depositors. The learned Additional Advocate General has also produced the list of the properties that were available for attachment and the approximate value of those properties, and would submit that, since the value of those properties is less than the amount due by the financial establishment to the depositors, the TNPID Court was right in ordering the attachment of the appellant's property, as it was a *mala fide* transfer in its favour.

6. This Court has carefully considered the submissions of the parties on both sides.

7. During the course of hearing, this Court had requested the learned Additional Advocate General appearing for the ninth and tenth respondents to furnish the details of the properties that were already attached and were available for attachment. In response to the same, the ninth respondent filed an affidavit and also submitted another list



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containing the details of the properties that were available for attachment and the properties, which were transferred otherwise than in good faith by the financial establishment.

8. This Court, by the earlier order dated 14.10.2024, had directed the ninth and tenth respondents to take steps to sell one of the properties by public auction and also take steps to expedite the attachment of three properties, besides filing application for setting aside certain *mala fide* transfers. The relevant portion of the said order dated 14.10.2024 reads as follows:

“4.This Court is of the view that before the appeal is finally heard and a decision is taken, in the interest of the depositors, certain directions can be issued to the respondents, which are as follows:

a)The respondents shall take steps to file separate applications under Section 8 of the TNPID Act, 1997, before the Special Court under TNPID Act Cases, Madurai, for each of the eighteen items of properties. The details of those properties are given in Tabular column in the affidavit filed by the respondents, which are extracted under:



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	Property situated	DOC No	Purchaser	OA/SEBI/ Proposal Details/ Power Deed/ Mortgage	Acrs	Cent	G.Value
1.	IL.Joseph Jeyaraj,(Rental Houses),Plot.No D.No.50/5, Opp road to TMBBank, Bypass road, Madurai.	3211/17 dt: 30.10.17	L.Kalaimani	---		6.31 (2748 Sq)	60,00,000
2.	Apartment, Blessing Agro Farm Ltd., Ponmeni Main road,Near by Ambedkar Ststue, Madurai.	5003/18 dt:11.5.18 OA.No.14/23	C.Sethuraman	---		7.31(3188 Sq	60,00,000
3.	Old Uma Marriage Hall, ByePass Road, Near Pandian Auto mobiles Building, Madurai.	1350/19	1)Blaze Web Service Private Ltd., 2)Byimpozhin W/O. Bernatcha Madurai. 3)Karthigeyan S/O. Ponnaiah Madurai	OA No:13/23 Sec-8 TNPID Act		19.20 (8375 Sq)	1,54,50,000
4.	City Union Bank Building, Bypass Road, InsidePremises, City Union Bank Near by Kannadhasan Park, Madurai.	309/17 dt:09.02.17	P.Pitchaimanicka m	-		4.88 (2126 .25 Sq)	12,00,00,000
5.	Milk Plant, Ramrajapuram Village,Nilakottai Taluk,Dindugal District.	1564/19 dt: 02.08.19	Ben Agro and Diary Farms(P) Ltd., (Sale Title Deed)	OA No:09/20 Sec-8 TNPID Act	38	93	77,86,000
6.	Thuvaram, Madurai South T.K, Madurai.	860/12 dt:08.03.12 861/12 dt:08.03.12	Vijayaraman	OA No:07/22 Sec-9 TNPID Act	02	50	1,80,60,000 (TNPID Court Deposited)



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7.	Plot.No. 14,15,16, Rs.No.5/14A, Thuvaniman, Madurai south T.K, Madurai.	2011: 1402- dt:06.04.11 1391-dt:11.04.11 2237- dt:10.06.11 2344-dt:15.06.11 3610- dt:08.09.11 4318- dt:02.11.11 4561-dt:02.11.11 5194 dt:23.11.11 2012: 860,861, dt:08.03.12 2013: 487,488-dt:11.02.13 1049-dt:18.03.13 1582- dt:29.04.13 2760- dt:24.07.13 2018: 4370, 4371 - dt:29.10.18	Nareshkumar Kavitha Premalatha Saranya Muthaiah Balamurugan Kannan	-	3	16	12,76,500
8.	Kudipatti, Pappinayakkanpatti, Thirumanikam Village,Peraiyur Taluk,Madurai District.	2010: 879,880-dt:08.06.10 970,971,972- dt:22.06.10 1040,1041,1042- dt:06.07.10 1161-dt:19.07.10 1291,1292- dt:10.08.10 1477,1478- dt:07.09.10 1737,1738- dt:14.10.10 1850,1851- dt:02.11.10 2021,2022- dt:24.11.10. 2011: 1234,1235,1236- dt:05.07.2011 1301,1302- dt:12.07.11 1724,1725- dt:06.09.11 2012:	Balamurall Panchavarnam Sivasubramani Ramar Muthulakshmi Sakthivel Prasanna		137	82	6,89,10,000



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		8,9,10-dt:03.01.12 443,444-dt:16.02.12 1008,1009,1010- dt:12.04.12 1026-dt:17.04.12 1068,1069,1070- dt:25.04.12 1275-dt:22.05.12 1474-dt:12.06.12 2180,2763- dt:12.12.12 2013: 35-dt:06.01.13 262-dt:26.02.13 874-dt:18.05.13 1130,1131- dt:30.07.13 1640-dt:29.10.13				
Q.	Kumathur R. Bir Village, Peraiyur Taluk, Madurai District.	2010: 4542,4543,4544 dt:20.06.10 7019- dt: 26.12.10	Jeyaraman, Arumu gam, umahyal, Amut ha, Sussiprakasam , Thangarasu, Devi, Muthu, Vasila, Paw nraja	19	01	95,05,000
10	Kuppalaiotham Mathippanoor 1 st Bit, Mangalreva Village, Peraiyur Taluk, Madurai District.	2011: 2679,2860,2881, 2882 -dt:28.12.11 2012: 229,230,231- dt:25.01.12 3703,2844- dt:21.03.12 1878,1508, 2071,2072- dt:27.06.12 5785-dt:25.06.12 1568,1969,1970- dt:10.06.12 6830,6831- dt:12.05.12 8056,8057,8058,8059 8060-dt:30.10.12 2013: 120,121-dt:30.01.13	Rengasamy Thillai Govindhan Kumari, Veera Lakshmi, Balasaivanan, JEy araj, Anandhan, Jcy achandranSelvaku mar, Karthickraj, Selvamani, alagasunfari, Chithra	217	60	10,88,00,000



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	2586,2589,2590,2591 2592,516,516, dt:28.03.13 1386, 1387, 1388, 1389-dt:13.07.13 5425,5426, 5427, 5428- dt:16.07.13 1487, 1488, 1903, 1904,1935- dt:07.10.13 2014: 31/14 dt:07.01.14 2018: 1256, 1863, 1443, 1442, 2921, 2998, 3193, 3227, 486, 720, 673, 164, 484, 485, 486					
Ramarajapuram Village, Nilakottai Taluk, Dindigul District.	2010: 528-dt:29.03.10 1986-dt:15.09.10 2011: 2052-dt:12.09.11 2291-dt:03.10.11 2693-dt:01.12.11 2890-dt:20.12.11 2012: 891-dt:30.03.12 1022,1023- dt:12.04.12 1183-dt:03.05.12 92,93-dt:12.01.12 1268-dt:18.05.12 1486-dt:14.06.12 1715-dt:09.07.12 1727-dt:10.07.12 2764-dt:16.11.12 2013: 118-dt:22.01.13 212-dt:30.01.13 725-dt:18.03.13 1562-dt:11.07.13 1725-dt:12.08.13 2014: 136-dt:29.01.14, 475-dt:13.03.14	Ben Agro and Diaries	---	35	18	7036900



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12	Sirukudi Village, Manamadurai Taluk, Sivagangai District.	2009 811,812,813,814,815 & 816-dt:15.02.2009 2010: 1671,1672 & 1673 - dt:31.03.10 2012 447-dt:19.01.12 2013: 3560 & 3561- dt: 31.07.13 2017: 918,919,920 dt:25.05.17 1338,1340,1341, 1342 dt:13.07.17, 2020 3819,3820 dt:16.12.20	Agastinraj, Amutha, Rosalinari, Packiyam, Thatchinamesothy, Jeyanathan, Nayavutharan, Vairamuthu, Seetha	—	13	83	30,96,000
13	Peraiyarpatti, Karisalpatti Village, Sathur Taluk, Virudhanagar District.	2013: 9180,9181,9182, 9183,9185,9184 dt:17.10.13 9651,9652,9653, 9654,9655,9656- dt:22.11.13 9832,9833,9834,9835 9836-dt:02.12.13	STALWART AGRONOMIC PVT.LTD., Karthick Babu, Bynthamilselvam		152	77	7,63,85,000
14	Saiyallur & Pogalur Village, Paramakudi TK, Ramanathapuram dist.	2013: 386,387,388,389 dt:01.03.13 885,886,887,888,889- dt:26.04.13 1776 -dt:20.08.13 2449 dt:18.11.13	Malleswaran		207	82	4,15,74,000
15	Paranoor Village, R.S.Mangalam TK, Ramanatha puram dist.	2012: 1000 to 1008 - dt:04.06.12	S.K.ARRO Farm, Madurai.	---	337	29	6,74,40,000
16	Prakkur Village, Mudhukulathur TK, Ramanathapuram Dist.	2011: 272to276-dt:09.03.11 400to404-dt:29.03.11 591to598-dt:04.05.11	Kenndy	---	103	53	2,07,06,000



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	1660to1685- dt:02.03.11 2012: 118,119-dt:18.01.12 780,751-dt:22.03.12 1930 dt:26.07.12					
7	Kanuthi Village, Kanuthu TK, Ramanathapuram Dist. 2011: 1358-dt:13.09.11 1491,1492- dt:07.10.11 1507,508-dt:14.10.11 1783to1786- dt:07.12.11 187,108-dt:24.01.12 2012: 727-dt:10.05.12 830,895,896- dt:08.06.12 1615,1616- dt:18.12.12 2013: 66,67-dt:23.01.13 79-dt:24.01.13 1129,1130,1131- dt:20.08.12 2017:973-dt:17.11.17	Thangadurai Manmaran Anulanathasamy Thatchinamoorthy	---	77	40	1,54,80,000
8	Podhukulam village, Sathankulam TK, Tuticorin dist. 2010: 1240to1242, Dt:23.7.10 1315, Dt:4.8.10	(PACL Attached)		102	82	2,17,38,000 (PACL Attached)
				1450	39	61,52,42,500

It is needless to say that the TNPID Court shall consider those applications on its own merits and in accordance with law.

b)The respondents shall take steps to expedite the attachment of the following 3 properties:

Sl. No	Property situated	Doc.No	Acrs	Cent	G.Value
1.	Kudipatti, Thirumanikam Village, Peraiyur Taluk, Madurai District	2161-Dt.12.09.12 Sent Proposal on 19.07.24 Survey No.221/1, 221/10, 68/9A	3	14	Rs.15,70,000
2.	Kunnathur II Bit Village, Peraiyur Taluk, Madurai District	7018 dt. 28.12.10 Survey No.115/1, 50/1 Proposal sent on 07.02.2024	-	69	Rs.3,45,000/-



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3.	Pudhukulam Village, Sathankulam Tk, Tuticorin District	739/2011 Dt: 5 22.03.11 Survey No.102/1A Proposal Sent on 24.6.24	87	Rs.11,74,000/
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c) It is submitted by the learned Additional Advocate General that with regard to the following properties belonging to the financial establishments, the competent authority has to take steps to send a proposal to the Government for attachment of those properties:

S. No	Property situated	DOC No	Property Owner	OA/SEBI/ Proposal Details/ Power Deed/ Mortgage	Acrs	Cent	G.Value
01	Blessing Matriculation School, D.No.24C, Backiya-lakshmi Nagar, Sambakudi, Earkudi Village, Madurai.	3903/21 Dt : 09.07.21	(A5)IL.Joseph Jeyaraj	OA.No:10/23 (Blessing Matriculation School) Sec-9 TNPID Act	1	24	13,05,98,568
02	Corporate Office, D.No.10/1 , SBO, 2nd Colony, 1st street, Ward. No.XXII Ponmeni, Madurai south Taluk, Madurai.	827/11 Dt : 04.03.21	(A5)IL.Joseph Jeyaraj,	(SEBI Attached)	---	9.25 (4034 Sq.mt)	2,50,00,00
03	Sengulam & Poolangal Village, Aruppukottai Taluk, Virudhunagar District.	2018: 491	(A5)IL. Joseph Jeyaraj,	(SEBI Recovery Amount by NLC)	270	---	3,30,00,000 (TNPID Court Deposited)



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04	IL. Joseph Jeyaraj, (Own House), Plot.No.1, D.No.50/5, Ashok Nagar, 3 rd Street, Kochadai, Madurai.	1291/19 Dt: 04.10.19	(A5)IL. Joseph Jeyaraj,	HDB Financial Services Ltd., S.Kalidoss (urPJ Mtzk;)	7.29 (3175 Sq.mt)	1,76,00,000
05	Thuvaraman, Madurai South T.K, Madurai.	1275/11 Dt: 31.03.11	(A5)IL. Joseph Jeyaraj,	---	14.64	15,00,000
06	Sirukudi Village, Manamadurai Taluk, Sivaganagai District.	4718/09, 4719/09 dt: 14.10.09	(A5)IL. Joseph Jeyaraj,		1 65	3,30,000
07	Alanganoor Village, Swathan Colony, Mudhukulathur TK, Ramanathapuram dist.	897/18 – dt: 25.7.18	(A5)IL. Joseph Jeyaraj,	Manimaran Power Deed	113 2925 Sq.mt	6,03,98,000
08	T.M. Kottai. Muthuramalingapuram, Perunali, K.S. Puram Village, Kadaladi TK, Ramanathapuram district.	251 /18 Dt : 7.5.18 252/18 Dt : 7.5.18	(A5)IL. Joseph Jeyaraj,	Muthukumari, Meenakshisundaram (Power-Doc)	271 89	5,43,78,000
09	Zameem Sengalpadi Village Villathikulam TK, Tuticorin dist.	1571/18 Dt: 21.6.18	A5-Joseph Jeyaraj	Rajammal @ Ramalakshmi (Mortgage Without Possession Deed)	306 1	3,00,000
					962 32	30,05,93,568

The respondent shall take action forthwith to send a proposal to the Government for attachment of the above referred properties, provided, the properties are available for attachment and free of any other encumbrance.



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d) By order dated 05.03.2024, in C.M.A(MD)No. 858 of 2023, this Court had set aside the order of the TNPID Court lifting the attachment of the property of the financial establishment comprised in Thuvariman, Madurai South T.K., Madurai, purchased Udi Doc.No. 860/12 dated 08.03.2012 and 861/12 dated 08.03.2012. This Court had also directed the TNPID Court either to fix the market value as security value in lieu of lifting of attachment or conduct a public auction for sale of the said property. It is represented that no action has been taken so far pursuant to the order of this Court. Mr.Prabhu Rajadurai, learned counsel, on instructions from the appellant, would submit that the appellant is willing to purchase the said property for a sum of Rs.4 Crores. When a property is attached by the Government and the said attachment is made absolute by the Special Court, the said property cannot be sold by way of a private sale. Since there is already an offer for Rs.4 Crores for the said property, the Special Court under TNPID Act Cases, Madurai, shall fix the said amount of Rs.4,00,00,000/- (Rupees Four Crores) as base price and conduct a public auction for the sale of the said property within a period of four weeks from the date of receipt of a copy of this order.

9. The above would indicate that, as against the approximate claim of Rs.55 Crores (as submitted by the learned Additional Advocate General on instructions) by the depositors, the value of the properties that were available for attachment would not be more than 30 Crores approximately. However, in order to invoke Section 8 of the TNPID Act, as rightly contended by the learned counsel for the appellant, the TNPID Court has



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to first hold that the value of the properties available for attachment is less than the amount or the value, which is required to be paid by the financial establishment to the depositors. However, a reading of the impugned order would show that this exercise has not been done by the TNPID Court.

10. Be that as it may, as regards the question as to whether the sale made in favour of the appellant is in good faith, this Court finds that the TNPID Court, after considering the evidence on record, held that the value of the property transferred in favour of the appellant is lesser than the market value and that there is contradiction in the stand taken by the appellant regarding the manner in which the sale consideration was paid and that the sale deed was executed much after the complaints started pouring in against the financial establishment and the transfer is a *mala fide* transfer.

11. This Court, upon re-appreciation of the evidence, finds that in Ex.P3, the Sale Deed in favour of the appellant, the sale consideration was shown as Rs.45,00,000/- and the same is said to have been paid by the appellant to the fifth respondent herein in several installments.



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However, before the TNPID Court, the appellant took the stand that the fifth respondent was due to pay him more than Rs.1 Crore, out of which the property worth Rs.45,00,000/- was transferred by way of Ex.P3, the Sale Deed, and the remaining amount is payable by the fifth respondent herein.

12. This Court also finds that, according to the appellant, the construction was made in the year 2014, and there is nothing on record to show that the fifth respondent had made any claim against the appellant from 2014 to 2018. That apart, it is also seen that the market value of the property is much more than what was shown in the Sale Deed. The property was also transferred after the FIR was registered against the fifth respondent.. For all the above reasons, this Court is of the view that the finding of the TNPID Court that the transfer was otherwise than in good faith cannot be faulted.

13. However, the TNPID Court has to first come to the conclusion that the value of the properties available for attachment is less than the value or the amount required to be paid to the depositors before attaching the property of the appellant under Section 8 of the TNPID Act. The



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TNPID has not done so in this case. The learned Additional Advocate General would however assert that the value of the properties available for attachment is less than the total deposit amount payable to the depositors. This has to be established by adducing evidence before the Tribunal.

14. Therefore, this case is remitted back to the TNPID Court to decide that issue alone. The findings of the TNPID Court as regards all other aspects are confirmed and need not be interfered with. It is open to the ninth respondent herein to establish before the TNPID Court that the total value of the properties is less than the value claimed by the depositors by adducing such evidence that may be necessary.

15. The learned Additional Advocate General would also submit that, apart from the first to fourth respondents, for whom proceedings are pending, the Investigation Officer is continuously receiving complaints from other depositors. It is needless to say that the claim made by such depositors should also be considered by the TNPID Court in determining the money payable to the depositors.



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16. The TNPID Court shall decide the question within a period of 2 months from the date of receipt of a copy of this Judgment. If the TNPID Court holds that the value of the properties available is less than the amount to be paid by the fifth respondent to the depositors, the Court may take further steps pursuant to the order of attachment.

17. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

28.10.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

JEN

Copy To:

- 1.The Special Judge,
The Special Court under TNPID Act Cases,
Madurai.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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