IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No. 615 of 2023
and
C.M.P.No.5095 of 2023

P.Madesvaran

...Appellant/19th Respondent

Vs

1. The Competent Authority,
District Revenue Office, ...1st Respondent/Applicant
Namakkal.

2.Jenith Herbals,
Proprietorship, represented by its Proprietor
Mr.B.Jegasesan,
No.132-A, Amman Kovil Street Road,
Melkalingampatty,
Semmedu Post,
Kolli Post,
Kolli Hills,
Namakkal District.

3.B.Jegadesan
4.P.Kandasamy

5.T.Manikandan
6.C.Kumar
7.P.Palanisamy
8.P.Subramani
9.C.Rajendran
10.G.Thukkagounder
11.P.Kumar
12.G.Kandasamy
13.V.Elumalai
14.C.Sundaram
15.T.Nagarathinam
16.P.Prakash
17.R.Sivaraj
18.P.Duraisamy
19.P.Kirubaidos ...Respondents 2 to 10/ Respondents 1 to 18

20.T.Muralikrishnan
S/o.Thiyagarajan,
Sub-Registrar,
Rasipuram,
(now working as Sub Registrar,
Paramathi,
Paramathi Velur Taluk,
Namakkal District-637 207.

...20th Respondent/20th Respondent

PRAYER: Appeal filed under Section 11 of the TNPID Act against the Order dated 07.03.2022 passed in O.A. No.19 of 2015 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore.

For Appellant(s): Mr.S.Senthil

For Respondent(s): Mr. C. Sathish,
Government Advocate
for R1

Mr.Rajesh Ramanathan
for R4 to R16

R2 and R3 – Not residing at present

R9 and R18-No appearance

R17- Addressee can not be located

R20-No Such Person

JUDGMENT

Challenging the Order dated 07.03.2022 passed in OA No.19 of 2015 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore, the 19th respondent preferred this Civil Miscellaneous Appeal.

2.The learned counsel appearing for the appellant would submit that the Court below committed an error in making the interim attachment absolute in respect of the property purchased by the appellant, without considering the *bona fide* nature of the purchase. The Court below proceeded merely on the premise that the vendor was an accused under the TNPID Act, without examining the conduct of the appellant or the circumstances of the purchase. He would submit that the Court below failed to appreciate the diligence exercised by the appellant, who had obtained an Encumbrance Certificate from the Sub-Registrar, Rasipuram, for the period from 01.01.2003 to 07.07.2014 prior to purchasing the property. The said Encumbrance Certificate did not reflect any entry regarding the *ad-interim* attachment passed under Section 3 of the Tamil Nadu Protection of Interests of Depositors (TNPID) Act, 1997, pursuant to G.O.Ms.No.497, Home Department, dated 12.07.2013. Only after ensuring that there was no encumbrance recorded, the appellant purchased the property from the 2nd accused for a valuable consideration of Rs.15,00,000/-. Further, the Court below failed to consider that the 1st respondent did not produce any evidence to establish that the appellant had prior knowledge of the *ad-interim* attachment passed under Section 3 of the Act. The first communication from the Sub-Registrar, Rasipuram, was the notice dated

15.10.2014 issued in Na.Ka.No.240/2014, which clearly post-dates the appellant's purchase. The Court below further erred in making the attachment order absolute, despite the fact that an interim order had already been granted by this Court on 10.07.2015 in W.M.P.No.2 of 2015 in W.P.No.20568 of 2015, which Writ Petition is still pending consideration. He woud further submit that the Court below ought not to have based its decision solely on the testimony of the D.R.O., Durga Moorthy (P.W.1), without affording the appellant adequate opportunity to cross-examine the witness, adduce evidence, and make submissions demonstrating that he is a *bona fide* purchaser for value in good faith and without notice.

3.The learned counsel appearing for the appellant would contend that the Court below has not rendered any reasoned finding as to how it concluded that the interim attachment should be made absolute, despite the absence of any evidence to show that the appellant was not a *bona fide* purchaser. The 1st respondent failed to produce any material to prove that the appellant's vendor acquired the property through the commission of the alleged offence, or that the transfer in favour of the appellant was fraudulent or intended to defeat the interests of depositors. Further, he would state that while the interim attachment order under Section 3 was passed on 12.07.2013 pursuant to G.O.Ms.No.497, the application under Sections 4(2) and 7 to make the attachment absolute was filed only on 06.09.2013, after a delay of 55 days, far beyond the statutorily prescribed period. Hence, the order of the Court below, as such, is perverse and liable to be set aside.

4.By way of reply, the learned counsel appearing for the 1st respondent would contend that it is an admitted fact that the criminal cases were registered against the respondents 1 to 18 in Crime Nos. 24 to 26 / 2012 for the offences punishable under Section 420 of the Indian Penal Code and Sections 4 and 5 of the Prize Chits and Money Circulation Schemes (Banning) Act. The cases were taken on file in C.C.Nos.34 to 36 of 2013. The documents marked as Ex.P2 to Ex.P4 are the copies of the FIRs, and Ex.P5 to Ex.P7 are the copies of the Final Reports. Further, he would contend that the respondents misappropriated the deposits for their personal use and subsequently, failed to return the deposits and interest to the depositors even after maturity and that the establishment was abruptly closed without repaying the collected deposits, and respondents 2 to 18 mismanaged and diverted the funds for their personal benefit and for acquiring properties. Further, he would contend that the Investigating Officer identified the properties owned by the accused and forwarded proposals to the Government through the Inspector General of Police, Economic Offences Wing–II, Chennai, seeking ad-interim attachment. The Government, being satisfied that the financial establishment was to repay the deposits and to safeguard the interests of depositors, passed an ad-interim order under Section 3 of the TNPID Act, 1997 in G.O.Ms.No.497, Home (Court IIA) Department, dated 12.07.2013, and directed the Competent Authority to take further action under Sections 4(3) and 4(4) of the Act and the TNPID Rules, 1997. Accordingly, O.A.No.19 of 2015 was filed seeking to make the *ad-interim* attachment absolute. Further, the Tahsildar, Rasipuram, took possession of three properties belonging to 2nd respondent on 06.01.2014 as per the directions of the Competent Authority/DRO, Namakkal, Despite the attachment order, the accused Jagadesan sold the attached properties to various purchasers, including the respondents 19 and 20. The copies of the Sale Deeds have also been produced. In the meantime, EOW–II, Salem sealed the house purchased by the 19th respondent claiming that the property stood attached by the Government. Hence, the 19th respondent filed a Writ Petition seeking removal of the seal, which was allowed by this Court on 10.07.2015 in W.M.P.No.2 of 2015 in W.P.No.20568 of 2015. Further, the Competent Authority/DRO filed their counter in the Writ proceedings. Ex.P32 is the report dated 23.02.2016 regarding removal of the seal from the premises of the 19th respondent.

5.The learned counsel appearing for the respondents would also contend that the interim attachment must be made absolute and the respondents 3 to 15 claim to be depositors themselves and the respondents 6, 12 and 14 claim to have purchased the properties from their independent income. Further, the respondents 16 and 17 state that they have no interest in the attached properties.

The 18th respondent claims to have purchased the property from his own earnings. The 19th respondent contends that he is a *bona fide* purchaser for value. He would submit that PW1's evidence was closed on 17.11.2021 and the respondents' side evidence was closed on 21.02.2022, but sofar no application was filed to re-open the evidence of PW1 and the evidence of the respondents. The respondent did not cross examine PW1 and did not examine themselves and produce any witnesses or documents to defend their case. Considering the oral and documentary evidence made by the Competent Authority, the Trial Court made absolute the *ad interim* attachment order passed over the properties in G.O.Ms.No.497, Home (Police XIX) Department, dated 12.07.2013 by allowing the application and the Competent Authority was permitted to sell the same in public auction and realize the Sale proceeds under Section 7(6) of the TNPID Act, 1997. Therefore, he prayed for dismissal of the appeal as there is no merit.

6.On perusal of the records, it is seen that the 1st respondent/Competent Authority filed an application before the Trial Court in O.A. No.19 of 2015 under Sections 4(3) and 7(6) of the TNPID Act to make absolute the *ad interim* attachment of the properties mentioned in G.O.Ms.No.497, Home (Police XIX) Department, dated 12.07.2013 and permit him to sell the properties so attached by public auction and realise the sale proceeds under Section 7(6) of the TNPID Act, 1997. The respondents 1 to 20 were called absent and the other respondents have contested the application. On hearing both sides the Trial Judge allowed the Original Application. Aggrieved over the same, the 19th respondent preferred this Civil Miscellaneous Appeal. The learned counsel appearing fot the appellant argued that the appellant is a *bona fide* purchaser of the house sites for a valid consideration from Jagadeesan, the 3rd respondent herein after due verifications of the Encumbrance Certificate and not finding any encumbrance and the interim order was not found in the encumbrance. The 19th respondent claimed himself as a *bona fide* purchaser and he was falsely implicated in this case. But, the Court below failed to take note of the fact and the interim attachment order was made absolute in respect of the property and prayed to set aside the said order.

7.As per the report of the Investigating Officer, the 3rd respondent

Jagadeesan as a Proprietor of the 2nd Respondent, by giving a false promise, collection money from around 330 depositors and diverted the said amount for his personal use and subsequently, failed to repay the deposited amount with interest and misappropriated the funds collected from public, thereby, they committed cheating. The Investigating Officer has identified the properties owned by the respondents after the defaulted financial establishment and forwarded the proposals to the Government through the Inspector General of Police, Economic Offences Wing–II, Chennai, seeking *ad interim* attachment. The Government, being satisfied that the financial establishment was to repay the deposits and to safeguard the interests of depositors, passed an *ad interim* order under Section 3 of the TNPID Act, 1997 in G.O.Ms.No.497, Home (Court IIA) Department, dated 12.07.2013, and directed the Competent Authority to take further action under Sections 4(3) and 4(4) of the Act and the TNPID Rules, 1997. Thereafter, the 3rd respondent herein sold the attached property to the 19th respondent on 22.09.2014 nearly about one year later after the attachment. Therefore, the purchase made by the appellant during the attachment was in force and the appellant purchased the property. Furthermore, the Investigating Officer *prima facie* established that the attached properties were purchased by Jagadeesan, the 3rd respondent herein by mismanaging the depositors' money for their own use. In such circumstances, the claim of the *bona fide* purchaser pleaded by the appellant, as such, is unsustainable one. Besides he has not adduced any evidence before the Court below, though sufficient opportunities were given.

8.(1)Furthermore, the learned Trial Judge also relied upon the Judgment in **N.Kanagasabai and another Vs State of Tamil Nadu (2013 (1) T.C. 753)**, wherein this Court also explained the three kinds of properties, which can be attached:-

> *"Section 3(ii) of the Act deals with 3 kinds of properties. The first set of properties are the properties in the name of financial establishment. With a view to recover the amount from the financial establishment, the properties standing in name of the financial establishment should be first of all attached. For any reason, if it is found that the said properties would not be sufficient to meet the demands, then, the Government and the*

competent authority may proceed against the properties standing in the name of the promoter, partner, director, manager, member of the said financial establishment or a person who has borrowed money from the financial establishment to the extent of his default. The third category of properties are the properties purchased from and out of the deposits collected by the financial establishment."

(2)In **A.Hafeezur Rahman Vs Deputy Superintendent of Police, Economic Offences Wing-II, Vellore-9** in the case of **C.M.A.No.96 of 2012, dated 24.03.2021**, this Court held thus:

"22.Therefore, it is not necessary that the property must be purchased only from and out of the money collected from the depositors. Even the properties which are already purchased and not from and out of money collected from the depositors or purchased long before starting of the Financial Establishment, those properties, are also can subject to attachment either under Section 3 of the Act by the Government or under Section 8 of the Act by the Special Court. Therefore, the very contention of the

appellant that the property is an ancestral property is immaterial and deserves no merit consideration. The very purpose and object of the Act is unambiguous that the attachment is to be made in respect of the properties of the person, who borrowed money through the Financial Establishment and failed to return back the money. Thus, it is not necessary to establish that the properties, which were transferred were not purchased from and out of money collected from the depositors."

The ratio laid down in the abovesaid cases by the trial Court is also squarely applicable to the facts of this case. Therefore, the reason assigned by the Trial Judge is well within the purview of Law and the alleged grounds submitted by the appellant is unsustainable.

9.Since the appellant is not a *bona fide* purchaser, the Trial Court elaborately discussed about the maintainability of the Original Application as there was no merit.

10.At the time of arguments, the learned counsel for the appellant would submit that the subject property is a house where the appellant is residing now. Further, as per the Orders of this Court, the lock and key was released, though the property is under the attachment by the Competent Authority. It is made clear that after passing the order of interim protection, the Original Application is in part-heard stage. Therefore, till the disposal of the Original Application, the appellant need not be disturbed by the Competent Authority. No costs. Consequently, connected Miscellaneous Petition is closed.

09-07-2025

mps
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

1.The Special Judge,
Special Court under TNPID Act,
Coimbatore.

2.The Section Officer,
Madras High Court,
Chennai.

T.V.THAMILSELVI, J.

mps

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