



CMA. Nos.2243, 2245 & 2327 of 2021

M.DHANDAPANI, J.

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On 10.07.2025, this Court passed the following order:

"These matters are listed today under the caption "for being mentioned".

2. Heard the learned counsel for the appellant.

3. It is brought to the notice of this Court that in the judgment dated 27.01.2025, the second respondent in CMA. No.2245 of 2021 has been wrongly typed and in the appearance portion, the name of the second respondent has also wrongly typed.

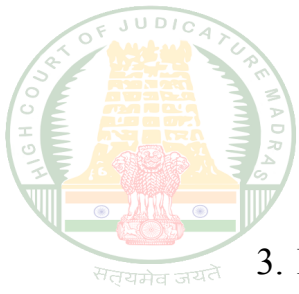
4. Registry is directed to make the following correction in judgment dated 27.01.2025:-

1. In the cause title, pertaining to CMA. No.2245 of 2021, the name of the second respondent be deleted:

2. in the appearance portion, the name of the second respondent also be deleted.

5. Except the above modifications, remaining portion of the order dated 27.01.2025 shall stand unaltered."

2. Today, again, these matters are listed under the caption "for being mentioned".



3. It is brought to the notice of this Court by the learned counsel for the petitioner that in para No.4(1), instead of the second appellant, it has been wrongly typed as second respondent. Likewise, in para No.4(2), instead of correcting the name of the counsel for the second respondent, it is mentioned as name of the second respondent.

4. In view of the above, Registry is directed to make the following corrections in the Judgment dated 27.01.2025 in the above said CMAs':

i. *In the cause title, pertaining to CMA.No.2245 of 2021, the name of the second appellant to be deleted; and*

ii. *In the appearance portion, Mr.B.Jaiganesh, the name of the counsel for the second respondent also to be deleted."*

5. Except the above modifications, remaining portion of the judgment dated 27.01.2025 shall stand unaltered.

10.09.2025

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Note: Registry is directed to make necessary correction and issue fresh order to the parties



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CMA No. 2243 of 2021

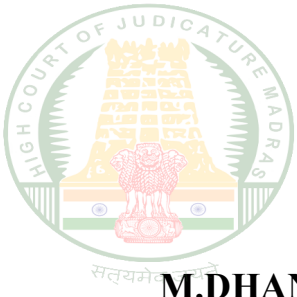


M.DHANDAPANI, J.

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CMA. No2243, 2245 & 2327 of 2021

10.09.2025



CMA. Nos.2243, 2245 & 2327 of 2021

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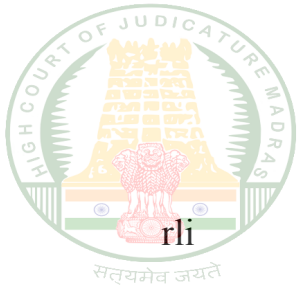
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10.07.2025



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CMA No. 2243 of 2021



M.DHANDAPANI, J.

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CMA. No2243, 2245 & 2327 of 2021

10.07.2025



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-01-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

CMA No. 2243, 2245 & 2327 of 2021

AND

CMP NO. 12370 OF 2021, CMP NO. 12357 OF 2021, CMP NO. 12373 OF 2021

CMA. No.2243 of 2021:

1. T.R.Periyasamy
S/o.Rangasamy Gounder, Thulakka
Palayam, Thuddupathi Village,
Perundurai Tk, Erode Dist.

2.P.Malarkodi
W/o.T.R.Priyasamy, Thulakka
Palayam, Thuddupathi Village,
Perundurai Tk, Erode Dist.

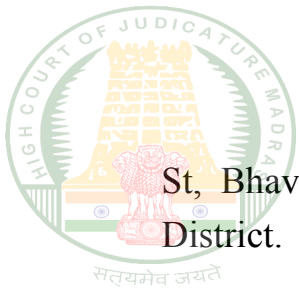
Appellant(s)

Vs

1. The Competent Authority
And District Revenue Officer, Erode
District, Erode.

2.M/s.Kongu Finance And Investments
D No.33/8, Vivekanandar St, Bhavani
Road, Perundurai, Erode Dist.

3.K.Sivasamy
S/o.Kuppusamy, 54/a, Vivekanandar



St, Bhavani Road, Perundurai, Erode
District.

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4.Kri.Ganesaamurthy

S/O.Late Krishnasamy Gounder,
Kollatham Valasu, Kanjikovil
Perundurai Tk, Erode Dt 638 116.

5.K.C.Thangaraj

S/O.Late Chenniappan, Karumandi,
Chellipalayam, Perundurai, Erode Dt
638 052.

(Respondents 4 and 5 are impleaded
vide court order dated.04/04/2024 made
in CMP NOs.13141,13143.13144 of
2022 and CMP NOs.12357,12370 and
12373 of 2021 in CMA NOs.2243,2327
and 2245 of 2021 by AQJ.)

Respondent(s)

CMA No. 2245 of 2021

1. T.R.Periyasamy

S/o.Rangasamy Gounder, Thulakka
Palayam, Thuddupathi Village,
Perundurai Tk, Erode Dist.

2.P.Malarkodi

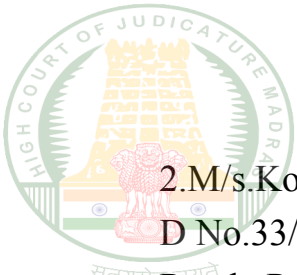
W/o.T.R.Priyasamy, Thulakka
Palayam, Thuddupathi Village,
Perundurai Tk, Erode Dist.

Appellant(s)

Vs

1. The Competent Authority

And District Revenue Officer, Erode
District, Erode.



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2.M/s.Kongu Finance And Investments
D No.33/8, Vivekanandar St, Bhavani
Road, Perundurai, Erode Dist.

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S/O.Late Krishnasamy Gounder,
Kollatham Valasu, Kanjikovil
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S/O.Late Chenniappan, Karumandi,
Chellipalayam, Perundurai, Erode Dt
638 052. Respondents 4 and 5
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NOs.13141,13143.13144 of 2022 and
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2021 in CMA NOs.2243,2327 and 2245
of 2021 by AQJ.

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CMA No. 2327 of 2021

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S/o.Rangasamy Gounder, Thulakka
Palayam, Thuddupathi Village,
Perundurai Tk, Erode Dist.

2.P.Malarkodi
W/o.T.R.Priyasamy, Thulakka
Palayam, Thuddupathi Village,
Perundurai Tk, Erode Dist.



Appellant(s)

Vs

1. The Competent Authority
And District Revenue Officer, Erode
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Chellipalayam, Perundurai, Erode Dt
638 052. Respondents 4 and 5 are
impleaded vide court order
dated.04/04/2024 made in CMP
NOs.13141,13143.13144 of 2022 and
CMP NOs.12357,12370 and 12373 of
2021 in CMA NOs.2243,2327 and 2245
of 2021 by AQJ.

Respondent(s)

PRAYER in CMA No. 2243 of 2021: CMA has been filed under Section 11 of
the Tamil Nadu Protection of Interests of Depositors (In Financial



Establishments) Act, 1997 to set aside the order of the Learned Special Judge, Special Court Under TNPID Act, Coimbatore dated 20.04.2021 in OA No.3 of 2020.

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PRAYER in CMA No. 2245 of 2021: CMA has been filed under Section 11 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, to set aside the order of the Learned Special Judge, Special Court Under TNPID Act, Coimbatore dated 20.04.2021 in OA No.5 of 2018.

PRAYER in CMA No. 2327 of 2021: CMA has been filed under Section 11 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, to set aside the order of the Learned Special Judge, Special Court Under TNPID Act, Coimbatore dated 20.04.2021 in OA No.4 of 2020.

For Appellant(s): Mr. S. Ramachandran For
M/s.A.Ramkumar
In All The Cmas

For Respondent(s): Mr. P. Gurunathan, AGP For R1
M/s.R.Santhanam B.Jaiganesh
For R3 R-2 No Appearance Mr.
T. Muruga Manickam Sr.
Counsel For M/s Pp
Shanmugasundaram For RR 4
and 5 In All The Cmas

COMMON JUDGMENT

These three appeals are filed by a partner and his wife of a finance institution, challenging the order passed by the Special Judge, Special Court

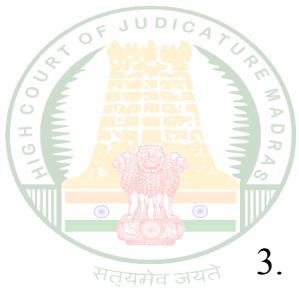


under TNPID Court, Coimbatore making the order of the Government attaching their properties.

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2. The facts that are necessary for the disposal of this appeals would be stated as follows:

The first appellant, in all the three appeals, was running a finance company in the name and style of M/s.Kongu Finance and Investments along with other partners. The partners have collected deposits from a total of 185 depositors. It is stated that they have deposited a sum of Rs.11,99,65,140/-. The partners have promised the depositors stars and moon. It is stated that the depositors were assured that for every Rs.100/-, they would get Rs.1.50/- as interest every month. However, the partners miserably failed in their promise and the depositors were neither paid interest nor paid principal and they were left in a lurch. Since the demands and cries of the depositors fell in deaf ears, the depositors have approached the police for return of the deposit money and a case came to be registered in Cr. No.31/2014 before the EWO-II under Section 120(b) read with 420, 406 IPC and Section 5 of TNPID Act 1997 and the same is still pending and witnesses are being examined. In the meanwhile, the Investigating Officer has identified the properties belonging to the appellant and his wife and recommended the same to the Government for attachment. Based on the said recommendation, the Government has passed an order issuing the interim order attaching the immovable properties owned by the appellant and his wife.

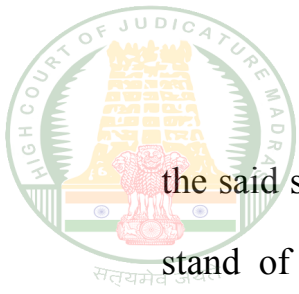


3. The competent authority and the District Revenue Officer, Erode District have filed original applications 3,4, and 5 of 2020 on the file of the Special Court under TNPID Act, Coimbatore seeking to make the interim order absolute and permit the authority to sell the properties under Section 7(6) of the TNPID Act and settle the demands to the depositors. The said original applications were allowed and the interim order of attachment was made absolute.

4. Challenging the genuineness and correctness of the said order, the present appeals have been filed.

5. Heard the learned counsel for the appellants and the learned counsel for the respondents and perused the materials available on record.

6. The short point to be considered is whether the Investigating Officer was justified in identifying the properties of the appellant and his wife alone without making any recommendation with regard to the properties owned by the other partners viz., Sivasamy and his wife Sundari as they have purchased the properties worth about more than Rs.20 crores which is out of the amounts invested by the depositors. Further, they have plotted out the same and sold it to several persons, in which, the wife of the 3rd respondent also purchased 4 to 5 properties in the said layout and sold then subsequently. The amount realised by



the said sale would be sufficient to satisfy the claims of the depositors. It is the stand of the appellants that merely because those properties have not been attached, it cannot be said that the said properties of Sivasamy and Sundari cannot be attached. The properties of the partners of the second respondent, are also be attached and brought for sale in public auction by the Competent Authority as per the Act. The competent authority has pleaded that it is the Investigating Officer who identifies such of the properties that could be attached and sold so as to realise money and settle the dues to the depositors.

7. The learned counsel for the appellants is perfectly justified and contending that the investigating officer has acted in a very biased manner and identified the properties belonging to the appellants while leaving huge properties owned by the other partner Sivasamy and his wife. The second appellant in CMA. No.2243 and 2377 of 2021 who is the wife of the first appellant, in her counter affidavit, had clearly stated that the property standing in her name was received as sridhana, which was given to her at the time of her marriage. Moreover, she has stated that she is working in a pharmacy and out of the said earnings, the properties were purchased. Though such plea has been taken, the learned Special Judge, without taking into consideration the said aspects, had made the Government Order absolute. The Special Judge was well within his powers to summon the investigating officer and questioned as to why the properties of the other partners Sivasamy was not recommended for attachment. The act of the investigating officer raises serious doubts with regard



to the member in which the properties have been identified in a pick and choose method. The aforesaid aspects have not been properly considered by the Court below which making the order of attachment absolute and therefore, this Court has no hesitation to set aside the order passed by the learned Special Judge.

8. In the result, the civil miscellaneous appeals are allowed and the impugned order dated 20.04.2021 passed by the learned Special Judge, Special Court under the TNPID Act, Coimbatore is set aside. No costs.

27-01-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

The Competent Authority

And District Revenue Officer, Erode

District, Erode.



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CMA No. 2243 of 2021



M.DHANDAPANI J.

rli

**CMA No. 2243 of 2021,
2245 OF 2021 and 2327
OF 2021**

27-01-2025