

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**108**

**CWP-3106-2025  
Date of Decision : March 18, 2025**

**SMART HOME INFRA, THROUGH PARTNER HARPAL SINGH**

**-PETITIONER**

**V/S**

**STATE OF PUNJAB AND OTHERS**

**-RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Vijay Kumar Jindal, Sr. Advocate with  
Mr. Abhishek Shukla, Advocate and  
Mr. Sriansh Singh, Advocate  
for the petitioner.

Mr. Pardeep Bajaj, D.A.G., Punjab.

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**KULDEEP TIWARI, J. (ORAL)**

1. The petitioner, a partnership firm, which claims itself to be the decree-holder by virtue of the judgment and decree dated 15.07.2024 passed by the civil court concerned, has approached this Court for setting aside the provisional attachment order dated 19.06.2024 (Annexure P-8), as passed in respect of its land.

2. The succinct averments embodied in this writ petition are that, the petitioner purchased approx. 9500 sq. yards land in Village Nabha, M.C. Zirakpur, District S.A.S. Nagar, for the purpose of developing thereon a high rise property. The details of the land (supra) are extracted hereunder:-

|                   |                                                                                                         |
|-------------------|---------------------------------------------------------------------------------------------------------|
| 2375 sq. yards    | Vide Wasika No.2704 dated 11.05.2023                                                                    |
| 1781.25 sq. yards | Vide Wasika No.8188 dated 26.10.2023                                                                    |
| 5343.75 sq. yards | Decree already passed vide judgment dated 15.07.2024.<br>The civil suit was filed when vendor betrayed. |

3. When the petitioner approached the Deputy Commissioner, S.A.S. Nagar, for the purpose of execution of sale deed qua land measuring 5343.75 sq. yards, in view of the judgment and decree dated 15.07.2024, it came to light that, the land (supra) was already provisionally attached by the competent authority appointed under The Banning of Unregulated Deposit Schemes Act, 2019 (hereinafter referred to as the 'BUDS Act'), in FIR No.253 dated 01.09.2023, registered under Sections 406, 420, 120-B of the IPC, Sections 4, 5, 12, 18 and 76 of the CHIT Funds Act, 1982, and, Sections 21 and 23 of the BUDS Act.

4. Fetching grievance from the impugned provisional attachment order, the petitioner has now approached this Court for setting aside thereof.

5. The arguments pitched by the learned senior counsel for the petitioner, in his beseeching the relief (supra), are summarized hereunder:-

*(a) The petitioner has not been arrayed as an accused in the FIR (supra), rather it has been registered against Subhash Sharma, Sukhdev Thakur, Hem Raj, Abhishek Sharma, Vipin Sharma, Sunil Sayal, Sham Sharma and other unknown persons;*

*(b) The right, title and interest of the petitioner, in the land (supra), accrued prior to the impugned provisional attachment order, hence the impugned provisional attachment order qua the land, which for all purposes vests with the petitioner, is not sustainable;*

*(c) The civil court concerned has already passed the judgment and decree dated 15.07.2024 in respect of the land*

*(supra) in favour of the petitioner, therefore, the same should have been executed by the authority concerned by allowing registration of the sale deed.*

*(d) The impugned provisional attachment order has been passed without issuing notice to the petitioner and without evaluating the fact that the property was already sold to the petitioner, hence the same does not affect the legal rights of the petitioner.*

6. This Court has considered the arguments made at length by the learned senior counsel for the petitioner, but, does not find any merit in the instant writ petition. This Court is of the view that, in fact, the instant writ petition is a misconceived motion filed with an oblique motive to thwart the ongoing proceedings under the BUDS Act.

7. The BUDS Act is an exhaustive Act, which prescribes the complete procedure for provisional attachment, and thereafter, confirmation by the designated court. In order to understand the controversy at hand, it is deemed imperative to capture a glimpse of some significant legal provisions enclosed in the BUDS Act.

8. The definition of “Unregulated Deposit Scheme” in encapsulated in Sub-section (17) of Section 2 of the BUDS Act. Section 3 imposes ban on unregulated deposits schemes. Section 5 restrains any person by whatever name called from knowingly making any statement, promise or forecast, which is false, deceptive or misleading in material facts, or, from deliberately concealing any material facts to induce any another person to invest in, or, become a member or participant of any unregulated

deposit scheme. Section 6 declares a prize chit or a money circulation scheme banned under the provisions of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978, to be an Unregulated Deposit Scheme under this Act. Sections 7 and 8 speak about the procedure for appointment of competent authority and designated court respectively. Section 15 deals with confirmation of attachment by designated court.

9. The relevant portion of the Sections (supra) is reproduced hereunder:-

***“2. Definitions—***

XX XX XX

*(17) “Unregulated Deposit Scheme” means a Scheme or an arrangement under which deposits are accepted or solicited by any deposit taker by way of business and which is not a Regulated Deposit Scheme, as specified under column (3) of the First Schedule.”*

***“3. Banning of Unregulated Deposit Schemes. — On and from the date of commencement of this Act,—***

*(a) the Unregulated Deposit Schemes shall be banned; and*

*(b) no deposit taker shall, directly or indirectly, promote, operate, issue any advertisement soliciting participation or enrolment in or accept deposits in pursuance of an Unregulated Deposit Scheme.”*

***“5. Wrongful inducement in relation to Unregulated Deposit Schemes.—No person by whatever name called shall knowingly make any statement, promise or forecast which is false, deceptive or misleading in material facts or deliberately conceal any material facts, to induce another person to invest in, or become a member or participant of any Unregulated Deposit Scheme.”***

***“6. Certain scheme to be Unregulated Deposit Scheme.—A prize chit or a money circulation scheme banned under the provisions of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978***

*(43 of 1978) shall be deemed to be an Unregulated Deposit Scheme under this Act.”*

**“7. Competent Authority.** — (1) *The appropriate Government shall, by notification, appoint one or more officers not below the rank of Secretary to that Government, as the Competent Authority for the purposes of this Act.*

*(2) The appropriate Government may, by notification, appoint such other officer or officers as it thinks fit, to assist the Competent Authority in discharging its functions under this Act.*

*(3) Where the Competent Authority or officers appointed under sub-section (2), for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of such information and particulars as may be prescribed, that any deposit taker is soliciting deposits in contravention of section 3, he may, by an order in writing, provisionally attach the deposits held by the deposit taker and the money or other property acquired either in the name of the deposit taker or in the name of any other person on behalf of the deposit taker from the date of the order, in such manner as may be prescribed.*

*(4) The Competent Authority shall, for the purposes of sub-section (3), have the same powers as vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while conducting investigation or inquiry in respect of the following matters, namely:—*

*(a) discovery and inspection;*

*(b) enforcing the attendance of any person, including any officer of a reporting entity and examining him on oath;*

*(c) compelling the production of records;*

*(d) receiving evidence on affidavits;*

*(e) issuing commissions for examination of witnesses and documents; and*

*(f) any other matter which may be prescribed.*

*(5) The Competent Authority shall have power to summon any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under this section.*

*(6) All the persons so summoned shall be bound to attend in person or through authorised agents, as such officer may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make statements, and produce such documents as may be required.*

*(7) Every proceeding under sub-sections (4) and (5) shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).*

*(8) Subject to any rules made in this behalf by the Central Government, any officer referred to in subsection (2) may impound and retain in his custody for such period, as he thinks fit, any records produced before him in any proceedings under this Act:*

*Provided that the officer or officers referred to in sub-section (2) shall not—*

*(a) impound any records without recording his reasons for so doing; or*

*(b) retain in his custody any such records for a period exceeding three months, without obtaining the previous approval of the Competent Authority.”*

**“8. Designated Court.** — *(1) The appropriate Government shall, with the concurrence of the Chief Justice of the concerned High Court, by notification, constitute one or more Courts known as the Designated Courts for such area or areas or such case or cases as may be specified in such notification, which shall be presided over by a Judge not below the rank of a District and Sessions Judge or Additional District and Sessions Judge.*

*(2) No Court other than the Designated Court shall have jurisdiction in respect of any matter to which the provisions of this Act apply.*

*(3) When trying an offence under this Act, the Designated Court may also try an offence, other than an offence under this Act, with which the accused may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial.”*

**“15. Confirmation of attachment by Designated Court.** — *(1) Upon*

*receipt of an application under section 14, the Designated Court shall issue notice to—*

*(a) the deposit taker; and*

*(b) any person whose property is attached under section 14, to show cause, within a period of thirty days from the date of issue of notice, as to why the order of attachment should not be made absolute and the properties so attached be sold.*

*(2) The Designated Court shall also issue notice to all other persons represented to it as having or being likely to claim any interest or title in the property, to appear on the same date as persons referred to in sub-section (1) to raise objections, if they so desire, to the attachment of the property.*

*(3) The Designated Court shall, after adopting such procedure as may be prescribed, pass an order—*

*(a) making the provisional order of attachment absolute; or*

*(b) varying it by releasing a portion of the property from attachment; or*

*(c) cancelling the provisional order of attachment, and in case of an order under clause (a) or clause (b), direct the Competent Authority to sell the property so attached by public auction or, if necessary, by private sale and realise the sale proceeds.*

*(4) The Designated Court shall not, in varying or cancelling the provisional order of attachment, release any property from attachment, unless it is satisfied that—*

*(a) the deposit taker or the person referred to in sub-section (1) has interest in such property; and*

*(b) there shall remain an amount or property sufficient for repayment to the depositors of such deposit taker.*

*(5) The Designated Court shall pass such order or issue such direction as may be necessary for the equitable distribution among the depositors of the money attached or realised out of the sale.*

*(6) The Designated Court shall endeavour to complete the proceedings under this section within a period of one hundred and eighty days from the date of receipt of the application referred to in sub-section (1).”*

10. A conjoint reading of the above provisions reveals the complete mechanism for passing of a provisional attachment order by the competent authority, and, for confirmation thereof by the designation court. This mechanism lends ample opportunity to the affected person(s) to raise his grievance either before the competent authority appointed under the BUDS Act, or, before the designated court at the time of passing confirmation order. Furthermore, Section 19 of the BUDS Act, which is extracted hereinafter, prescribes the specific provision of appeal to High Court.

*“19. Appeal to High Court. — Any person including the Competent Authority, if aggrieved by any final order of the Designated Court under this Chapter, may appeal to the High Court, within a period of sixty days from the date of such order:*

*Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.*

*Explanation.—The expression “High Court” means the High Court of a State or Union territory where the Designated Court is situated.”*

11. The petitioner has, instead of adopting the procedure embodied in the BUDS Act for redressal of its grievance, straightaway filed the instant writ petition, which is a totally misconceived motion. Therefore, the instant writ petition is **dismissed**. However, liberty is reserved to the petitioner to, in case it has any grievance, approach the authority/court concerned in accordance with the procedure (supra).

March 18, 2025  
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(KULDEEP TIWARI)  
JUDGE

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |