

(2022) 02 TEL CK 0018

In the Telangana High Court

Case No : Writ Petition Nos. 24514, 24558, 21042, 26069, 26074, 26077,
26094, 26102 Of 2021

Methuku Ventures Ltd.

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 01-02-2022

Acts Referred:

Constitution Of India, 1950 — Article 14
Indian Penal Code, 1860 — Section 120B, 168, 420
Telangana State Protection of Depositors of Financial Establishments Act, 1999 —
Section 3, 3(3), 3(4), 4, 4(3), 4(4), 5, 6, 6(4), 7, 7(1), 7(2), 7(3), 7(4), 7(5), 7(6), 11
Motor Vehicles Act, 1988 — Section 51
Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 24(2)

Citation : (2022) 02 TEL CK 0018

Hon'ble Judges : K. Lakshman, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Writ Petition

No.", "Name of the

Petitioner", "Accused Number as per Charge

Sheet and the Alleged Designation", "Property Attached/Seized

W.P.

No. 21042

of 2021", "Dornala

Premalatha", "Accused No. 6

Member of Sun Mutually Aided

Thrift Co- operative Society", "Sy. No. 130 & Plot No. 40/Part

and 41

admeasuring 300 Sy.Yds. purchased vide

Doc. No. 3525/18 dated 02.03.2018

at SRO Gajwel

• Sy. No. 174, Plot No. 17 &

18 admeasuring 242 Sy. Yds. purchased

vide Doc. No. 1889/2018 dated

17.02.2018 at SRO Gajwel

• Sy. Nos. 455/E/1, 454/1, 454/1EE/3AA/2

admeasuring Ac.1.03 ½ Gts. purchased

vide Doc. No. 395/2018 dated

11.01.2018 at SRO Gajwel

W.P.

No. 24558

of 2021", Methuku Ravinder, "Accused No. 2

CEO of Sun Pariwar Group of

Companies", • Maruti • Suzuki • Swift Dezire - TS 36

B 6229

• Two Cell Phone: 1 Apple iPhone-X, 1

Apple iPhone- X plus

• Sy.No.10/ /1 & 10/AA/1 and 11/ ,

admeasuring Ac. 0.35 ½ Gts. purchased

vide Doc. No. 5724/2018 dated 04.06.2018

at SRO Gajwel

• Sy.No.10/ /1 admeasuring Ac. 0.05

½ Gts. purchased vide Doc. No.

5756/2018 dated 06.06.2018 at SRO Gajwel

• Net Cash â?" Rs. 1,49,79,790/-

W.P. No.

24514 of

2021", "Methuku Ventures
Rep. by Papagari
Nagesh", "Accused No. 7 (Papagari Nagesh)
Director Sun Pariwar Group of
Companies", "Â Sy.No.1280/B, 1280/C admeasuring Ac.
1-30 Gts. purchased vide Doc. No.
6649/2018 dated 05.10.2018 at SRO
Shamirpet
Â Sy.No.1280/D admeasuring Ac. 0.35
Gts. purchased vide Doc. No. 6713/2018
dated 10.10.2018 at SRO Shamirpet
W.P. No.
26609 of
2021", Kanchana Srinivas, "Accused No. 15 Agent/Employee of
Sun Pariwar Group", Maruti Suzuki Swift Dezire - TS 36 B 6229
W.P. No.
26074 of
2021", "Sirimalli Vijay
Bhasker", "Accused No. 14 Agent/Employee of
Sun Pariwar Group", Hyundai Creta - TS 36 D 0077
W.P. No.
26077 of
2021", Tekuri Rav, "Accused No. 4 Director of Sun
Mutually Aided Thrift Cooperative
Society", Toyota Fortuner - TS 07 APT/R1848
W.P. No.
26094 of
2021", "Talari Rajendra
Prasad", "Accused No. 11 Marketing Director
and Business Promoter in Sun

Pariwar Group",Toyota Fortuner - TS 07 APT/R4515

W.P. No.

26102 of

2021",Bangla Shanker,"Accused No. 3 President of Sun

Mutually Aided Thrift Co-operative

Society",Maruti Ertiga - TS 15 ER 4509

Law Suit (AP) 1763 it was argued that ownership of the seized vehicles vests with the financier/bank under Section 51 of the Act, 1988. Therefore,",,,

the vehicles cannot be attached till a No Objection Certificate is given by the concerned bank.,,,,

iv) The Respondent shall release the vehicle so that the Petitioners can pay the outstanding EMI amount.,,,,

v) The order dated 16.09.2019 passed in Crl. M.P. No. 3902 of 2019 attaching the properties mentioned in G.O. Rt. No. 484 does not mention any,,,

reasons.,,,,

vi) The Petitioners were not party to Crl. M.P. No. 3902 of 2019 and no opportunity of hearing was given to them which is violative of principles of,,,

natural justice.,,,,

vii) The vehicles of the Petitioners are no way connected to the alleged offences in the charge sheet.,,,,

viii) An alternative remedy of appeal is available under Section 11 of the Act, 1999. However, since there are violations of principles of natural justice",,,,

the present writ petitions are maintainable.,,,,

7. Contentions of Respondent No. 2,,,

i) The allegations against the Petitioners are grave and all the Petitioners are accused in the charge sheet.,,,,

ii) The G.O. No. 484, order dated 16.09.2021 in Crl. M.P. No. 3902 of 2019, order dated 04.08.2021 in Crl. M.P. No. 282 were passed by following",,,,

the due procedure under the Act, 1999.".,,,,

iii) All the Petitioners were put to notice in all the proceedings under the Act, 1999. The Petitioners cannot contend that they were not parties in Crl.",,,,

M.P. No. 3902 of 2019 when notices were issued and counters were filed by them.,,,,

8. Analysis and findings of the Court,,,

i) In light of the facts, the following issues are to be decided in the present cases:" ,,,

1. Whether the Government was justified in issuing the impugned G.O. Rt. No. 484 dated 07.06.2019 in terms of Section 3 of the Act, 1999?" ,,,

2. Whether order dated 16.09.2019 passed in Crl. M.P. No. 3902 of 2019 and order dated 04.08.2021 passed in Crl. M.P. No. 282 of 2020 are liable,,,

to be set aside on the grounds of not following the procedure laid down under the Act, 1999?" ,,,

ii) Before deciding the issues at hand, it is necessary to discuss the procedure for attachment and auction of properties under the Act, 1999. The" ,,,

relevant provisions are extracted below:,,,

Section- 3:,,,

Notwithstanding anything contained in any other law for the time being in force,-

(i) Where, upon complaints received from a depositor or" ,,,

depositors, that any financial establishment defaulted or is likely to default in the return of deposits in cash or kind after maturity, or in any manner" ,,,

agreed upon; or (ii) Where the Government have reason to believe that any financial establishment is acting in a manner prejudicial to the interests of" ,,,

the depositors with an intention to defraud the depositors; and if the Government are satisfied that such financial establishment is not likely to return" ,,,

the deposits in cash or kind after maturity, or in any manner agreed upon, 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. ,,,

Section -4:,,,

Competent Authority - (1) The Government may, by notification, appoint an

authority hereinafter called ""the competent authority"" to exercise",,,

control over the properties attached by the Government under section 3.,,,

(2) The Competent authority shall have such other powers and discharge such other functions as may be prescribed, in addition to the powers and",,,

functions specified under this Act.,,,

(3) Upon receipt of the orders of the Government under section 3, the Competent authority shall apply within fifteen days to the Special Court",,,

constituted under this Act for making the ad-interim order of attachment absolute.,,,

(4) An application under sub-section (3) shall be accompanied by one or more affidavits, stating the grounds on which the belief that the financial",,,

establishment has committed any default or is likely to defraud, is founded, the amount of money or value of other property believed to have been",,,

procured by means of the deposits, and the details, if any, of persons in whose names such property is believed to have been invested or purchased out",,,

of deposits or any other property attached under section 3.,,,

Section -5:,,,

Penalty for default - Where any financial establishment defaults in the return of the deposit either in cash or kind or defaults in the payment of",,,

interest on the deposit as agreed upon, every person responsible for the management of the affairs of the financial establishment including the",,,

promoter, Manager or Member of the financial establishment shall be punished with imprisonment for a term which may extend to ten years and with",,,

fine which may extend to rupees one lakh and such financial establishment shall also be liable for fine which may extend to rupees five lakh.,,,

Section -6:,,,

Special Court - (1) For the purposes of this Act, the Government shall, with the concurrence of the Chief Justice of the High Court, by notification",,,

constitute a District and Sessions Court as a Special Court.,,,

(2) No court including a court constituted under the Presidency Towns Insolvency Act, 1909 (Central Act III of 1909) and the Provincial Insolvency",,,

Act, 1920, (Central Act V of 1920), other than the Special Court shall have jurisdiction in respect of any matter to which the provisions of this Act",,,

apply.,,,

(3) Any pending case in any other court to which the provisions of this Act apply shall stand transferred to the Special Court.,,,

(4) The Special Court shall, on an application by the competent authority, pass such order or issue such direction as may be necessary for the",,,

equitable distribution among the depositors of the money realised from out of the property attached.,,,

Section -7:,,,

Powers of Special Court regarding attachment - (1) Upon receipt of an application under section 4, the Special Court shall issue to the financial",,,

establishment or to any other person whose property is attached by the Government under section 3, a notice accompanied by the application and",,,

affidavits and of the evidence, if any, recorded, calling upon to show cause on a date to be specified in the notice why the order of attachment should",,,

not be made absolute.,,,

(2) The Special Court shall also issue such notice, to all other persons represented to it as having or being likely to claim, any interest or title in the",,,

property of the financial establishment or the person to whom the notice is issued calling upon such person to appear on the same date as that",,,

specified in the notice and make objection, if he so desires, to the attachment of the 4 property or any portion thereof on the ground that he has an",,,

interest in such property or portion thereof.,,,

(3) Any person claiming an interest in the property attached or any portion thereof may, notwithstanding that no notice has been served upon him",,,

under this section, make an objection as aforesaid to the Special Court at any time before an order is passed under sub-section (4) or sub-section (6).",,,

(4) If no objections are made and no cause is shown on or before the specified date, the Special Court shall forthwith pass an order making the ad",,,

interim order of attachment absolute.,,,

(5) If any objection is made or cause is shown as aforesaid, the Special Court shall proceed to investigate the same, and in so doing as regards the",,,

examination of the parties and in all other respects, the Special Court shall, subject to the provisions of this Act, follow the procedure and exercise all",,,

the power of Court in hearing a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908) and any person making an objection shall be",,,

required to adduce evidence to show that at the date of the attachment, he had

some interest in the property attached.",,,

(6) After investigation under sub-section (5), the Special Court shall pass an order making the ad-interim order of attachment absolute or varying it by",,,

releasing a portion of the property from attachment or cancelling the ad interim order of attachment:,,,

Provided that the Special Court shall not release from attachment any interest, which it is satisfied that the financial establishment or the person",,,

referred to in sub-section (1) has, in the property unless it is also satisfied that there will remain under attachment an amount or property of value not",,,

less than the value that is required for re-payment to the depositors of such financial establishment.,,,,

Section -11:,,,

Appeal- Any person including the competent authority, if aggrieved by an order of the Special Court, may appeal to the High Court within thirty days",,,

from the date of such order.,,,,

iii) A Division Bench of the erstwhile High Court for the states of Telangana and Andhra Pradesh in Sai Vuma Chit Fund Co. and Group of",,,

Companies Sufferers Welfare, Vijayawada v. State of Andhra Pradesh 2017 (5) ALD 367 (DB) briefly explained the procedure under the Act, 1999",,,

as follows:,,,

6. In order to address and adjudicate various submissions of the learned Senior Counsel as noted above, it is necessary to refer to the relevant",,,

provisions of the Act. The Act is conceived to protect the interests of the depositors of the financial establishments. Section 3 of the Act empowers",,,

the State Government concerned to pass an ad interim order of attachment of properties. Under sub-section (3) thereof, upon receipt of the orders of",,,

interim attachment from the Government, the competent authority shall apply within fifteen days to the Special Court for making the ad interim order",,,

of attachment absolute. Section 4 of the Act envisages appointment of a competent authority by a notification by the Government to exercise control",,,

over the properties attached by the Government under Section 3. Under Section 6 of the Act, a District and Sessions Court will be constituted by the",,,

Government as a Special Court with the concurrence of the Chief Justice of the High Court.,,,,

7. Under Section 7(1) of the Act, the Special Court shall issue to the financial

establishment or to any other person whose property is attached by the",,,
Government under Section 3, a notice accompanied by the application, affidavits
and the evidence, if any, recorded, calling upon to show-cause why",,,
the order of attachment should not be made absolute. Under Section 7(2) of the
Act, the Special Court shall issue notice to all other persons",,,
represented to it as having or being likely to claim any interest or title in the
property of the financial establishment or the person to whom the notice is,,,
issued calling upon such person to appear on the same date as that specified in
the notice and make objection, if he so desires, to the attachment of the",,,
property or any portion thereof on the ground that he has an interest in such
property or portion thereof.,,,
8. Under Section 7(3) of the Act, any person claiming an interest in the property
attached or any portion thereof may, notwithstanding that no notice",,,
has been served upon him under this Section, make an objection as aforesaid to
the Special Court at any time before an order is passed under sub-",,,
section (4) or sub-section (6), viz., the order for equitable distribution among the
depositors of the money realised out of the properties attached. Under",,,
Section 7(4) of the Act, if no objections are made and no cause is shown on or
before the specified date, the Special Court shall forthwith pass an",,,
order making the ad interim order of attachment absolute.,,,
9. Under Section 7(5) of the Act, if any objection is made or cause is shown as
aforesaid, the Special Court shall proceed to investigate the same, and",,,
in so doing, as regards the examination of the parties and in all other respects, it
shall, subject to the provisions of the Act, follow the procedure and",,,
exercise all the powers of the Court in hearing a suit under the Code of Civil
Procedure, 1908 and any person making an objection shall be required to",,,
adduce evidence to show that at the date of the attachment, he had some
interest in the property attached. Under Section 7(6) of the Act, after",,,
investigation under subsection (5), the Special Court shall pass an order making
the ad interim order of attachment absolute or varying it by releasing a",,,
portion of the property from attachment or cancelling the ad interim order of
attachment. Under Section 11 of the Act, any person aggrieved by the",,,
order making the attachment absolute may file an appeal.,,,
iv) To further clarify the procedure of attachment, Section 3 of the Act, 1999
provides that to safeguard the interests of the depositors, the",,,

Government can attach properties which are allegedly procured out of the amounts deposited by the depositors. The requirements under Section 3 of, the Act, 1999 are that the Government before attaching the property must receive complaints from any depositor(s) that a financial institution has committed default or is likely to commit default or where there is a reason to believe that the financial establishment is acting in a way which will prejudice the depositors. Further, the Government must satisfy itself that the accused financial establishment is not likely to return the deposits after maturity or the manner in which it was agreed to be returned.

v) A competent authority is constituted under Section 4 of the Act, 1999 to control the properties attached. Further, Section 4(3) & 4(4) of the Act, 1999 provide that an application to the Special Court, constituted under Section 6 of the Act, 1999, is to be made by the competent authority within 15 days of the attachment order passed by the Government under Section 3 of the Act, 1999. Such application is to be filed along with an affidavit(s) stating the grounds on which a belief exists that the financial establishment has defrauded or will defraud the depositors.

vi) Under Section 7 of the Act, 1999, the Special Court before making the attachment of properties absolute, must issue a show cause notice to the financial establishment or to any person whose property is attached and to all such people who are likely have any claim, interest or title in the property. Further, the show cause notice shall be sent along with the application, affidavits and details of evidence, if any.

vii) Such show cause notice should specify a date on which the people whose properties are attached can make objections to such attachment before the Special Court. Even if no show cause notice is issued, any person claiming an interest in the attached properties can make objections to the attachment. If no objections are made on or before the specified date, the special court should immediately make the ad-interim attachment order passed by the Government absolute. Objections raised, if any, shall be investigated by the Special Court acting as a Court hearing a suit under Code of

Civil Procedure, 1908. After hearing the Special Court shall pass appropriate orders.

9. Issue No.1:

i) The Petitioners contended that the impugned G.O. Rt. No. 484 dated 07.06.2019 issued under Section 3 of the Act, 1999 is devoid of reasons." ,,,

Further, they contended that the impugned G.O.Rt. No. 484 does not establish that the properties attached were purchased from the deposits collected" ,,,

by the financial establishment.,,,

ii) Firstly, this Court has to consider whether the Government was satisfied that the financial establishment is not likely to return the deposits after" ,,,

maturity or in a manner which was agreed upon. The Government has to satisfy itself after considering the material on record.,,,

iii) In the present case, the only material considered by the Government was a report C.NO.58/EOW/Cyb/2019 dated 26.03.2019 received from" ,,,

Commissioner of Police, Cyberabad. The details of investigation including the witness statements were not placed before the Government to satisfy" ,,,

itself. The Commissioner of Police, Cyberabad has not placed any other documents or material before the Government along with his report. He has" ,,,

not placed the material said to have been considered by him in his report. Only a report which is the Commissioner of Police, Cyberabad's opinion" ,,,

was considered by the Government. Therefore, the Government only relied on the opinion of Commissioner of Police, Cyberabad and did not satisfy" ,,,

itself independently.,,,

iv) Dealing with similar facts, this Court in Garnet Finance Limited v. The Commissioner of Police 2015 (2) ALT (Crl.) 169 (A.P.). held the following:" ,,,

26. The above statements in the counter-affidavit filed by the competent authority only indicate that the material collected during ,,,

investigation was considered by the respondent, who was the Competent authority, to come to the conclusion that a case is made out" ,,,

for requesting the Government to pass an ad interim order of attachment of properties of the respondents. But the said material was ,,,

not placed before the Government for it to come to an independent conclusion regarding the existence of satisfaction as required by ,,,

Section 3. Only the opinion of the competent authority contained in the letter L&O/M2/1556/07, dt. 16.04.2007 was placed for" ,,,

consideration by the Government, before it issued the said G.O. Ms. No. 98 dt. 14.05.2007, and nothing else." ,,,

27. So, except the opinion of the Commissioner of Police, Hyderabad city, about

the commission of offence under the Act by accused,",,

the material on the basis of which such conclusion was arrived at by him, was not placed before the Government, and was not",,,

considered by it, before issuing G.O. Ms. No. 98 Home (General.B) dt. 14.05.2007.",,,

28. In *Devinder Singh* (2008) 1 SCC 728 (supra), the Supreme Court held that formation of opinion must precede application of mind and such",,,

application of mind must be on the materials brought on record. It held that material should be such which are required to be collected by the,,,

authorities entitled therefor and the authorities must act within the four corners of the statute. It declared that an opinion formed even on the basis of,,,

an advice by an authority which is not contemplated under the statute renders the decision bad in law, and that a statutory authority is bound by the",,,

procedure laid down in the statute and must act within the four corners thereof.,,,

29. Sec.3 of the Act, in the present case, requires the Government to be satisfied that the accused is not likely to return the deposits in cash or kind",,,

after maturity or in any manner agreed upon, and that it was necessary to protect the interests of the depositors of the accused that an ad interim",,,

order of attachment of the property of the accused be made.,,,

30. The satisfaction, therefore, as required by Section 3 must be of the Government and not that of the competent authority. Therefore,",,

if the material on the basis of which the competent authority had formed an opinion that an offence under the Act had been committed",,,

by the accused was not placed before the Government, it would not be a case where the Government can be said to have independently",,,

come to a satisfaction that an offence under the Act has been committed by the accused, but it would be a case of the Government",,,

acting in a mechanical way under dictation of the respondent. This is impermissible. As the Government has simply gone by the advice,,,

rendered by the competent authority on the issue, the requirements of Section 3 are not fulfilled.",,,

31. In *Shauqin Singh v. Desa Singh*, the Chief Settlement Commissioner was empowered under Section 24(2) of the Displaced Persons",,,

(Compensation and Rehabilitation) Act 44 of 1954 to cancel an allotment of land under the said Act if he was satisfied that such allotment was,,,

granted by means of fraud, false representation or concealment of any material fact. The Court held that the power is judicial and by the use of",,,

expression is satisfied, the Chief Settlement Commissioner is not made the final arbiter on the facts on which the conclusion is reached. His jurisdiction",,,

arises only if an allotment is obtained by means of fraud, false representation or concealment of material facts. It observed that the relevant",,,

satisfaction is a jurisdiction fact on the existence of which alone the power may be exercised, and a superior authority or a High Court in a writ",,,

petition, would therefore, be entitled to consider whether there was due satisfaction by the Chief Settlement Commissioner, on materials placed before",,,

him, and that the order was made not arbitrarily, capriciously or perversely. The Court held in that case that although the Chief Settlement",,,

Commissioner had cancelled the allotment made in favour of the party, in his order there was no reference to any evidence which may support his",,,

conclusion and that the High Court was justified in holding that his conclusion, that respondent Nos. 1 to 3 were guilty of fraud, was based on no",,,

evidence and was competent to set it aside.,,,

32. The principle in the said decision squarely applies to the present case. The existence of satisfaction as required by Section 3 is a jurisdictional fact",,,

and such satisfaction can be shown to have been in existence on the basis of material placed before the Government. Since the only material before",,,

the Government was the opinion of the competent authority, i.e., the respondent and nothing else, it is clear that the Government had acted",,,

mechanically on his dictation without independently satisfying itself about the accused being unlikely to return the deposits in cash or kind after",,,

maturity, or in any other manner agreed upon, and that it was necessary in order to protect the investors that an order of ad interim attachment of the",,,

properties of the accused, is warranted." ,,,

33. In Gordhandas Bhanji AIR 1952 SC 16 (supra), the Supreme Court held that where under a statute a specific authority is bound to exercise his",,,

own independent discretion without harping on the directions or instructions of others, the acting under others directions may make the order improper",,,

and subject to correction by a Writ of Mandamus.,,,

34. Therefore, it has to be held that there was no independent application of mind by the Government as required by Sec.3 of the Act",,,

this point is answered in favour of appellants and against respondent.,,,

v) As stated supra, in the present case, the Government only considered the opinion of Commissioner of Police, Cyberabad which is also the",,,

competent authority in the present case. The Government failed to consider the matter independently and satisfy itself under Section 3 of the Act,",,

1999. Therefore, the impugned G.O. Rt. No. 484 dated 07.06.2019 is liable to be set aside.",,,

10. Issue No.2:,,,

i) The Petitioners contended that order dated 16.09.2019 passed in Crl. M.P. No. 3902 of 2019 has to be set aside as the affidavit filed along with the",,,

petition in Crl. M.P. No. 3902 of 2019 did not state any grounds, the Petitioners were not party to the proceedings and the order itself does not state",,,

any grounds for making the attachment absolute.,,,

ii) The affidavit filed along with the petition in Crl. M.P. No. 3902 of 2019 states the grounds clearly. The affidavit states that "The accused person",,,

through their firm i.e. Sun Pariwar Group of Companies, Rep. by its CEO, Directors and other accused persons have lured and collected crores of",,,

amount in the form of deposits from the Investors / victims even after the completion of maturity period on their deposits. Further, it is disclosed that",,,

the accused persons have wrongfully investors' / victim's money and purchased the properties on their names and name of companies",,,

causing wrongful gain to them and wrongful loss to the victims'!...? Therefore, the contention of the petitioners that no reasons/grounds were stated",,,

in the petition is unsustainable.,,,

iii) To verify whether the Petitioners were parties to the proceedings in Crl. M.P. No. 3902 of 2021 and whether notices under Section 7(1) and",,,

Section 7(2) of the Act, 1999 were issued, this Court had called for original records of the Special Court. Perusal of the records would reveal that all",,,

the Petitioners herein except the Petitioner in W.P. No. 21042 of 2021 were parties to the proceedings. However, notices were not served in",,,

accordance with the procedure envisaged under Section 7 of the Act, 1999. As mentioned above, under Section 7 of the Act, 1999, the notice is to be",,,

issued by the Special Court to the financial establishment and all such persons who are owners and who have a claim or interest in the property. The",,,

notice should be accompanied by the application along with the affidavit stating

the grounds. Further, the show cause notice shall specify a date on",,,
which the person has to appear and show cause why his/her property should not be attached.,,,

iv) In the present case, the procedure under the Act, 1999 was not followed. The records of the Special Court reveal that notice was issued by the",,,

Petitioner therein and not the Special Court. Further, the notice issued by the Petitioner therein was received across the bench by a counsel who",,,

appeared for the counsel on record for the Respondents/Accused therein. As no notice was issued by the Special Court, no specific date was fixed",,,

calling upon persons whose property was to be attached. Therefore, it is evident that the procedure under the Act, 1999 was not followed.",,,

v) It is relevant to note that the requirement of issuing notice under Section 7 of the Act, 1999 is mandatory. The records reveal that the Petitioner in",,,

W.P. No. 21042 of 2021 was not a party to the proceedings in Crl. M.P. No. 3902 of 2019. Further, no notice was issued to her in terms of Section 7",,,

of the Act, 1999 to attach her property.",,,

vi) The other argument advanced by the Petitioners was that the impugned order dated 16.09.2019 passed in Crl. M.P. No. 3902 of 2019 failed to,,,

mention the grounds to make the attachment absolute. This Court after perusing the said impugned order dated 16.09.2019 found that the Special,,,

Court only recorded the contentions of the Petitioner and gave no reasons to make the attachment of properties absolute. It is trite law that every,,,

judicial order should be a speaking order and it shall contain reasons. The order should reflect the contentions of the parties involved and should,,,

provide the rationale behind the decision at which the court arrived. The court should not merely record the contentions of the parties, but has to apply",,,

its mind to decide the merits of the contentions. The application of mind will only be reflected in the reasons recorded to reach the decision. It is a,,,

necessary presumption to be drawn that the court did not apply its mind, if no reasons are recorded in the order.",,,

vii) In the present cases, the impugned order dated 16.09.2019 is set aside as the procedure under Section 7 of the Act, 1999 was not followed and no",,,

reasons were stated by the Special Court to make the attachment absolute.,,,

11. Conclusion:,,,

i) In light of the aforesaid, these writ petitions are allowed. The ad-interim

attachment order under G.O. Rt. No. 484 dated 07.06.2019 and the",,,
absolute attachment order dated 16.09.2019 passed in CrI. M.P. No. 3902 of 2021 are set aside. As the ad-interim attachment and attachment are set,,,
aside, the order dated 04.08.2021 passed in CrI. M.P. No. 282 of 2020 ordering auction of the properties is also set aside. Therefore, the e-auction",,,
notification held on 25.10.2021 is also set aside. All the consequential sales of properties pursuant to the e-auction are set aside. The properties shall,,,
be forthwith returned to the owners. However, liberty is granted to the authorities to take appropriate steps by following the procedure under the",,,
Telangana State Protection of Depositors of Financial Establishments Act, 1999, and they shall complete the said procedure within three (03) months",,,
from today. Till then, the petitioners shall not alienate or encumber the property attached under G.O.Rt.484, dated 07.06.2019 in any manner.",,,
ii) In the circumstances of the case, there shall be no order as to costs.",,,
iii) The Registry is directed to return the original record to the trial Court.,,,
12. As a sequel, miscellaneous petitions, if any, pending in the writ petitions, shall stand closed.",,,