

(2005) 07 MAD CK 0015

In the Madras High Court

Case No : W.A. No's. 1115 and 1116 of 2005

S. Parthasarathy and Others

APPELLANT

Vs

N. Arumugam and Others

RESPONDENT

Date of Decision : 27-07-2005

Acts Referred:

Tamil Nadu Protection of Interests of Depositors in (Financial Establishments) Act, 1997 — Section 10, 11, 3, 4, 6

Citation : (2005) 3 LW 691 : (2005) 3 MLJ 487

Hon'ble Judges : A.P. Shah, C.J; F.M. Ibrahim Kalifulla, J

Bench : Division Bench

Advocate : P. Bhagyalakshmi and L. Chandrakumar, for the Appellant; S. Krishnan, Counsel for Sarvabahuman Associates for Respondent No. 1 and V. Raghupathy, Government Pleader for Respondent Nos. 2 to 5, for the Respondent

Final Decision : Allowed

Judgement

F.M. Ibrahim Kalifulla, J.—With the consent of both parties, the writ petition itself is taken up for final hearing.

2. Petitioner in the writ petition is really aggrieved against an order passed by the competent authority u/s 3 of the Tamil Nadu Protection of

Interests of Depositors (in Financial Establishment) Act, 1997 (Act 44 of 1997). u/s 3, after passing an interim order of attachment, the competent

authority constituted u/s 4 of the Act has to move the appropriate forum, viz. the Special Court constituted u/s 6 of the said Act. Thereafter, the

Special Court will be seized of the matter, who will be dealing with all other subsequent proceedings relating to the manner in which the attachment

order passed u/s 3 of the Act is to be dealt with i.e. either to modify or vary the said order of attachment or even to revoke the same after

analysing the facts and circumstances involved in the case. Sections 8, 9 and 10

of the said Act empowers the Special Court to pass such appropriate orders depending upon the facts and circumstances involved. Further u/s 11 of the said Act, any person aggrieved by the order of the Special Court can file an appeal to this Court within thirty days from the date of the order. Having regard to such special procedure prescribed under the provisions of the above referred to enactment, we are of the firm view that the writ petition is totally misconceived and the same is not maintainable. The writ petition is liable to be dismissed on the ground of availability of alternative remedy under Act 44 of 1997 particularly when disputed questions of fact are involved. Therefore, we dismiss the writ petition, reserving the petitioner's liberty to move the Special Court for the redressal of the grievances in the manner known to law. Petitioner can move the Special Court within fifteen days from the date of receipt of copy of this order. The writ petition is accordingly dismissed.

3. In view of the disposal of the writ petition itself, nothing survives in the writ appeals. The writ appeals are also dismissed.

4. Connected W.P.M.P. No. 46150 of 2004 and W.A.V.M.P. Nos. 2129 and 2130 and W.A.M.P. Nos. 2013 and 2014 of 2005 are closed.