

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.Nos. 18131 of 2013; 14503, 23930, 26959, 27153, 35105 of 2015;
15796, 19406, 19467, 43230, 46306 of 2016; 5077, 5104, 5106, 5111,
5145, 7990, 23558, 24843, 26155, 35292 of 2017; 5243, 20363, 23870,
24347, 34803, 41098, 41205, 41259, 44526, 47453 of 2018;
17502 of 2019; 22820, 28426, 31945 of 2021; 2439 of 2022;

PIL Nos.193 and 277 of 2015;

W.P(PIL).Nos.17 and 18 of 2016

COMMON ORDER: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

Learned Special Counsel for the State of Andhra Pradesh Sri P.Govind Reddy, at the outset, has argued before this Court that the matters relate to Agrigold Farms Estates India Private Limited, Akshaya Gold Farms Villas India Limited etc. The companies have received large number of deposits from various depositors and writ petitions and public interest litigations have been filed before this Court seeking refund of the amounts deposited by the depositors. He has stated that the Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999 (for short, "the Act"), takes care of such depositors.

He has straightaway drawn the attention of this Court towards Sections 6, 9, 10 and 11 of the Act.

Sections 6, 9, 10 and 11 of the Act are reproduced as under:-

"6. Special Court:- (1) For the purpose 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.

9. Security in lieu of attachment:- Any financial establishment or person whose property has been or is about to be attached under this Act may, at any time, apply to the Special Court for permission to give security in lieu of such attachment and where the security offered and given is in the opinion of the Special Court, satisfactory, and sufficient, it may cancel, the *ad-interim* order of attachment or, as the case may be, refrain from passing the order of attachment.

10. Administration of property attached:- The Special Court may, on the application of any person interested in any property attached under this Act, and after giving the Competent Authority an opportunity of being heard, make such orders as the Special Court considers just and reasonable for ,--

- (a) Providing from such of the property attached as the applicant claims an interest in such sums as may be reasonably necessary for the maintenance of the applicant and of his family, and for expenses connected with the defence of the applicant where criminal proceedings have been instituted against him in the Special Court under section 5;
- (b) Safeguarding so far as may be practicable the interest of any business affected by the attachment and particularly by in the interest of any partners in such business.

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."

A statement at bar has been made that a Special Court i.e., the Court of Principal District and Sessions Judge, Eluru, has been constituted for the cases related to Agrigold Farms Estates India Private Limited, Akshaya Gold Farms Villas India Limited etc., and the matters are pending before the said Court. He has also informed that

the competent authority was also appointed long back in the matter. Meaning thereby, all claims in respect of the depositors are to be adjudicated by the Special Court constituted for the purpose.

Learned Senior Counsel Sri P.B.Vijay Kumar has stated before this Court that various orders have been passed in the present cases and other connected matters from time to time and the Special Court be directed to consider those orders also while passing orders in respect of disbursement of amount. Not only this, he has stated that an amount of Rs.50,42,70,521/- is lying with the Registry of this Court and therefore, the amount be transferred to the Special Court for distribution of the same to the depositors.

After hearing the learned counsel for the parties in the present matters, this Court is of the opinion that it is the Special Court which is having jurisdiction to make equitable distribution of the money realised, out of the property attached, among the depositors.

Therefore, the amount of Rs.50,42,70,521/- along with the accrued interest be transferred to the Special

Court constituted for the purpose. The petitioners before this Court as well as all other depositors shall be free to file appropriate applications in respect of their claims before the Special Court by furnishing all minute details and the Special Court shall proceed ahead in accordance with law keeping in view the statutory provisions as contained in the Act.

It has been brought to the notice of this Court that in some of the cases the petitioners are Banks. The said Banks shall also be certainly free to file an application before the Special Court.

It has further been brought to the notice of this Court that there are two writ petitions i.e., W.P.Nos.23870 and 24347 of 2018 filed by the Bharat Sanchar Nigam Limited (BSNL). The BSNL shall also be free to approach the Special Court or avail any other remedy available under the law.

It has also been brought to the notice of this Court that certain properties are sold on account of the order passed by this Court. Therefore, the Special Court shall

now be free to proceed ahead in accordance with law in respect of those properties also.

Resultantly, all the writ petitions and the public interest litigations are accordingly disposed of.

The miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

The Registry is directed to furnish the complete proceedings in respect of all the writ petitions and the public interest litigations to the Special Court.

SATISH CHANDRA SHARMA, CJ

ABHINAND KUMAR SHAVILI, J

25.02.2022

vs