

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.7523 of 2015 & MP.No.1/2015

M.Arivazhagan

..Petitioner

Versus

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

2.The Deputy Superintendent of Police
Economic Offences Wing-II,
Namakkal District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of Declaration declaring the auction to be held on 19.03.2015 at 11.00 a.m. in Erode Collector Office in respect of all that piece and parcel of land situated in S.Nos.18/2B, 18/3B, 18/4, 5,6,7,8,9,10,11,12,13,14, 15,16,17,18 and S.No.19 admeasuring an extent of 5 Acres at Pattakkaranpalayam village, Perundurai Taluk, Erode District.

For Petitioner : Mr. G.Murugendran
For Respondents : Mr.R.Vijayakumar, AGP

ORDER

Heard Mr. K.G.Murugendran, learned counsel for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader, accepting notice on behalf of the respondents and with their consent, the writ petition is disposed of at the admission stage itself.

2.The petitioner seeks for issuance of a writ of declaration, declaring the auction to be held on 19.03.2015 at 11.00 a.m. in the office of the District Collector, Erode, in respect of the property comprised in S.Nos.18/2B, 18/3B, 18/4, 5,6,7,8,9,10,11,12,13,14, 15,16,17,18 and S.No.19 admeasuring an extent of 5 Acres at Pattakkaranpalayam village, Perundurai Taluk, Erode District.

3.The petitioner would state that he is the Manager of the Kongunadu Emu Poultry Private Limited and the subject property stands in the name of the petitioner. The petitioner has been arrayed as the fourth accused in the case pending before the Special Court under the TNPID Act, Coimbatore, in OA.No.22/2013. The petitioner has filed this writ petition contending that the auction proposed to be held on 19.03.2015 [tomorrow] is illegal since no upset price has been fixed and without fixing the upset price, the auction cannot be proceeded with.

4.The learned Additional Government Pleader brought to the notice of this Court, the order passed by the Special Court under the TNPID Act, Coimbatore, in OA.No.22/2013 dated 22.02.2014.

5.Before the Special Court, the petitioner herein who was the 4th respondent/accused contended that he has a right over the property and it is false to state that the properties were purchased in the name of the petitioner from the income of the Kongunadu Emu and Poultry Farms Private Limited. The Special Court pointed out that the petitioner herein is only a Manager as per the Final Report and he merely manages the affairs of the company who is just a paid servant and would not be responsible for the management in the sense of that they are not answerable to claim made against the Finance Firm. Further it is pointed out that the person who simply manages the affairs of the firm cannot be said to have taken the responsibility of answering the allegation of mismanagement of the affairs of the Firm. Further, it is observed that all persons who manages the affairs of the Financial Institution need not be necessarily for Management of the affairs of the Institution. As per Section 5 of the TNPID Act, a person charged, should be responsible for the Management of the Affairs of the Institution. After making such observation, the Special Court considered the contentions raised by the petitioner herein and held that the competent authority failed to follow the proper procedure as contemplated under Rules 3 and 4 of the Rules and dismissed the petition. Subsequently, the petitioner herein who is the 4th respondent filed a Memo stating that he has no objection and the same was recorded.

6.In the light of the orders passed by the Special Court under the TNPID Act, Coimbatore, this Court cannot issue any interim direction as regards the matter since it is the Special Court which has seized off the matter and it has to ensure that proper price is secured for the property in the manner known to law. Therefore, if there is any irregularity or illegality in the auction, it is always open to the petitioner to approach the Special Court for necessary relief.

7.With the above observation, the writ petition is disposed of.
No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

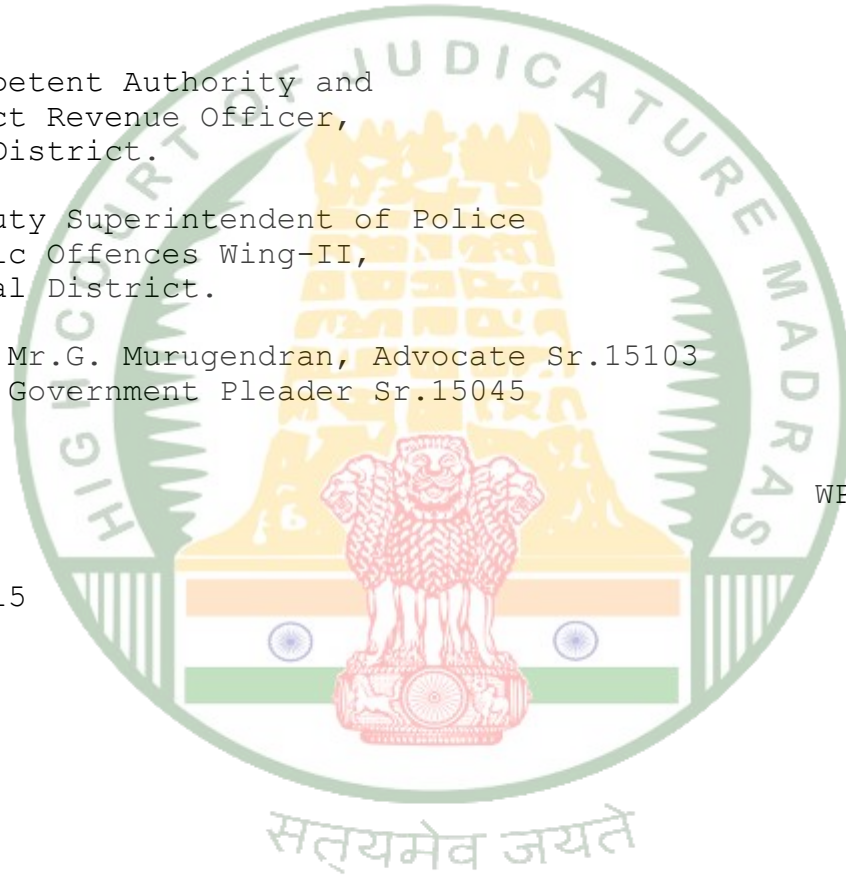
1.The Competent Authority and
District Revenue Officer,
Erode District.

2.The Deputy Superintendent of Police
Economic Offences Wing-II,
Namakkal District.

+ 1 cc to Mr.G. Murugendran, Advocate Sr.15103
+ 1 cc to Government Pleader Sr.15045

CTK(CO)
EU 25.03.15

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