IN THE HIGH COURT OF JUDICATURE AT MADRAS

Delivered on 02.06.2015

Reserved on 27.04.2015

CORAM

THE HONOURABLE MR.SANJAY KISHAN KAUL,
THE CHIEF JUSTICE
AND
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.7626 of 2015

S.K.Mahendran, Ex.M.L.A.,
(Perambur Constituency)
Office of the Communist Party of India (Marxist),
North Madras District Committee,
No.52, Cooks Road,
Otteri, Chennai-600 012. .. Petitioner

vs.

1.The Government of Tamil Nadu,
Rep. By its Principal Secretary,
Department of Land Revenue,
Secretariat, Fort St.George,
Chennai-600 009.

2.Inspector General of Registration,
Government of Tamil Nadu,
Raja Annamalaipuram,
Chennai-600 028.

3.The District Collector,
Collector Office,
1st Line Beach, Rajaji Salai,
Chennai-600 001.

4.District Revenue Officer,
Collectorate Office,
1st Line Beach, Rajaji Salai,
Chennai-600 001.

5.Binny Limited,
No.1, Cooks Limited
Otteri, Chennai-600 012. .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order K.Dis.No.J4/14487/2014 dated 06.02.2015 passed by the fourth respondent and to quash the same as being illegal, arbitrary and contrary to the principles of natural justice and consequently to direct the first respondent Government to resume the land as mentioned in the document No.944/1930 dated 29.04.1930 within a time frame to be fixed by this Court, after cancelling the patta issued in favour of the fifth respondent Mills.

For Petitioner : Mr.N.G.R.Prasad
for M/s.Row and Reddy

For Respondents: Mr.S.T.S.Moorthy,
Government Pleader for R1 to R4
Mr.P.S.Raman, Senior Counsel
for Mr.S.Ramesh for R5

O R D E R

M.SATHYANARAYANAN, J.

The present litigation has a long and chequered history and it is not necessary to state the facts in detail, as the common order dated 24.09.2003 made in W.P.No.14856 of 2003 [Binny Limited v. The Appellate Authority for Industrial and Financial Reconstruction and Others - 2003 (4) CTC 733] deals with factual aspects and traces earlier events.

2. Facts narrated in brief, for disposal of this writ petition are as follows:

2.1. This writ petition is filed as a Public Interest Litigation by a member of communist party of India, namely Marxist-CPI(M) and he is also a former member of Legislative Assembly having represented Perambur constituency. The petitioner would state that he earlier filed W.P.No.12799 of 2014 praying for issuance of a Writ of Mandamus directing the Collector of Chennai District/third respondent herein to consider and dispose of his representation dated 10.04.2014 and consequently, direct the second respondent herein, namely Inspector General of Registration, Government of Tamil Nadu, not to register or to do anything with reference to the property covered by the registered sale deed dated 24.09.1930 (registered as Doc.No.944/1930). This Court, vide order dated 30.04.2014, directed the third respondent to consider and pass orders on the petitioner's representation dated 10.04.2014 on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order, after putting on notice the parties concerned and by a subsequent order dated 25.09.2014 made in M.P.No.2 of 2014 in W.P.No.12799 of 2014, time was extended for another six weeks.

2.2. The third respondent in-turn, transferred the proceedings to the fourth respondent, who has passed the impugned order rejecting the request made by the petitioner for cancelling the patta granted in favour of the fifth respondent, namely M/s.Binny Limited in the year 2011 with liberty to the petitioner to file an appeal before the appropriate Civil Court in terms of G.O.(Ms).No.409, Revenue SSI (I) Department dated 02.07.2008 issued by the first respondent.

2.3. According to the petitioner, the fifth respondent Mill was established in the year 1921 at Perambur, Chennai and Binny Engineering was also established at Meenambakkam, Chennai and Bangalore Woollen, Cotton and Silk Mills at Bangalore and all these units were amalgamated as one company by various orders passed by various High Courts in the name of Binny Limited in the year 1969. The petitioner would further state that M/s.Buckingham & Carnatic Mills Limited [B&C Mills] was one of the largest textile mills in the whole of Asia manufacturing textiles and it employed about 13000 workers and was the main source of livelihood for many residents in Chennai. The then British Government assigned large areas of land to B&C Mills and during war time, for the purpose of defence production, sold 21.96 acres of land called "Barracks Land" to the fifth respondent, vide registered sale deed dated 29.04.1930 bearing Doc.No.944 of 1930 for a meager sum of Rs.1,40,000/- in which the workers were housed. In the sale deed, two conditions were stipulated, namely (1) that the company should pay Rs.350/- per acre every year as ground rent to the Government on or before 15th of July every year (2) in case they wanted to sell the land to other than British nationals, they would have to seek the permission of the Government.

2.4. It is the claim of the petitioner that if the fifth respondent defaulted in complying with any one of the above two conditions, the sale would become null and void and the Government has every right to re-enter forthwith and take possession of the land without paying any compensation. It is stated by the petitioner that the fifth respondent was not keen in running the Mills at Perambur, Chennai and closed the Mills in the year 1996 and threw the workers out in the streets and having found that conversion of land into real estate would be a more profitable proposition for the promoters, proceeded further that the land was intended for building housing quarters for the workers. The petitioner, on seeing the advertisement as to the intention of the fifth respondent to develop lands into real estate, submitted a representation dated 10.04.2014 to the third respondent pointing out the conditions mentioned in the sale deed dated 29.04.1930 and after filing of the writ petition seeking disposal of the representation, ultimately the fourth respondent has passed the impugned order, rejecting his request.

2.5 Grounds of challenge raised by the petitioner are as follows:

(a) The fifth respondent Mill has violated the two conditions mentioned in the registered sale deed dated 29.04.1930 and hence, the Government ought to have resumed possession and that the sale also becomes null and void.

(b) The fifth respondent has not paid the ground rent for the reason of having exempted from paying Tamil Nadu Urban Land Tax for the workers quarters and nowhere the Tamil Nadu Urban Land Tax says that the tax collected is in lieu of ground rent.

(c) Since the fifth respondent has defaulted in payment of ground rent, the fourth respondent ought to have cancelled patta and resumed the land.

(d) The fourth respondent did not give any opportunity of personal hearing, but merely collected documents and statements from each of the parties in the absence of other side.

(e) The documents filed by the other side were also not furnished to the petitioner and since the impugned order is per se in violation of the principles of natural justice and contrary to the order dated 30.04.2014 made in W.P.No.12799 of 2014, it is to be quashed with consequential direction directing the first respondent to resume lands, which is the subject matter of sale deed dated 29.04.1930.

2.6. Fourth respondent has filed a counter affidavit stating among other things that the petitioner has requested for cancellation of patta issued in favour of the fifth respondent in respect of lands admeasuring to an extent of 16 cents, 14 grounds and 1560 Sq.ft., in R.S.No.2201/2, situated at Purasawalkam village and a part of the land was acquired for construction of building for the Employees' State Insurance Corporation and an award was passed and a sum of Rs.2,63,309.75 was paid towards compensation in favour of B&C Mills and therefore, it cannot be said that the land be resumed to the Government. It is further stated in the counter affidavit that patta was transferred to the fifth respondent based on the common order passed by this Court dated 28.10.1969 made in C.P.Nos.59, 60 and 61 of the 1969, in and by which, the scheme of amalgamation between the fifth respondent, Binny Engineering Works Limited and B&C Mills came into being. Insofar as the claim made by the petitioner under the provisions of the Tamil Nadu Urban Land Tax Act, it is stated by the fourth respondent that Urban Land Tax is levied in lieu of ground rent levied under Ryotwari Assessment as per G.O.Ms.No.984, Revenue Department dated 17.5.1986 in terms of Section 27(1) of the said Act, the Governor of Tamil Nadu has exempted the payment of urban land tax in respect of lands belonging to the fifth respondent and therefore, the said stand of the petitioner is unsustainable. The fourth respondent would further state that Revenue forums have no jurisdiction to decide either the right or title of land in patta transfer cases and it is for the Civil Court to decide such issues and the District Revenue Officer has jurisdiction only to enquire the appeal petitions and revision petitions in respect of transfer of registry cases over the lands and the dispute of title over the property is not within the jurisdiction of the District Revenue Officer and since the issue raised by the petitioner relates to title of the property, he was advised to approach the competent Civil forum.

2.7. Fifth respondent has filed a counter raising preliminary objections as to the locus standi of the petitioner to file Public Interest Litigation. The fifth respondent, on the merits of the case, in para 2 traced the title to the property in question and would state that revised patta was issued by the Tahsildar, Purasawalkam in C.A.No.627 of 2011 dated 31.05.2011. Subsequently, the operation of the company came to a grinding halt and several litigations were instituted by workmen for settling the dues and final settlements were arrived at and a Memorandum of Understanding was entered into with all the employees on 28.05.2008 and alternatively, land site of about 500 sq.ft. free of cost, which is situated very close to the property in question was given to each worker and so also other retirement benefits, to them. The fifth respondent would further state that majority of the workmen accepted the settlement and about 124 individuals filed a suit in C.S.No.396 of 2011 on the file of this Court, challenging the settlement arrived at between the Management and the Union and admittedly, the Suit is not relating to title or possession of the property in question.

2.8. Subsequently, 119 individuals approached the fifth respondent and agreed for the revised settlement and have withdrawn themselves from the Suit by filing necessary affidavits before this Court and as on date, only about 6 individuals are agitating the settlement which was given to other employees. Each of the employees, out of 124 members, who agreed for settlement in December 2013, were given 600 sq.ft., of land free of cost, including registration charges, Rs.50,000/- for shifting and all terminal benefits were also settled with interest @ 18% p.a. The labour unions had also accepted and agreed and the said settlement has become final and the land that was given free of cost to the labourers would be valued at more than Rs.30 to Rs.40 lakhs.

2.9. Insofar as the interpretation given by the petitioner as to the two conditions specified in the registered sale deed dated 29.04.1930, the fifth respondent would contend that insofar as the first condition/clause is concerned, which is opposed to public policy and law, consequent to the enactment of Indian Independent Act, the classification of British subject and Indian subject stands extinguished and therefore, to that extent, the said condition contained in the sale deed becomes void and the said condition being separable from the entire document, would not render the entire document void. Insofar as the second condition is concerned, it is contended by the fifth respondent that consequent to the enactment of the Tamil Nadu Urban Land Tax Act, tax has been paid and necessary proof has already been produced and exemption was given by the Government for payment of said tax, since residential quarters of the workmen were located.

2.10. It is the categorical stand of the fifth respondent that the registered sale deed 29.04.1930 is an absolute sale deed wherein title, ownership and possession passed into the hands of B&C Mills Limited and if all the covenants contained in the sale deed are read in conjunction, the same would reveal that the petitioner is in possession and enjoyment of the property. The fact that sale consideration to the tune of Rs.1,40,000/- has been paid at the time of execution of sale deed, would also imply that it was an absolute sale and vested with the purchaser absolutely and the issuance of the patta would also establish the fact that it was an absolute sale and therefore, the fifth respondent prayed for dismissal of the writ petition.

2.11. The petitioner also filed an additional affidavit inviting the attention of this Court to the Board Standing Orders 15 and 24A which speaks about assignment of land and would reiterate his stand that the promoters were not interested in running the mill and went to convert the lands into a real estate and have failed to adhere to the settlement arrived at under Section 12(3) of the Industrial Disputes Act, 1947 dated 16.07.1996 as well as another settlement dated 28.03.1998. It is further stated in the additional affidavit filed by the petitioner that on 28.05.2008, the Management of the fifth respondent entered into a Memorandum of Understanding wherein they agreed to allot 500 sq.ft., of land to 244 workers who are staying in four different villages including Barracks Land Village. The Board for Industrial and Financial Reconstruction (BIFR) was not disposing of Case No.48 of 1993 in pursuant to the orders passed by the Appellate Authority for Industrial and Financial Reconstruction (AAIFR) in Appeal No.72 of 2008 and hence, two writ petitions were filed by the Union and Management in W.P.Nos.18304 and 18117 of 2008 respectively to record the Memorandum of Understanding dated 28.05.2008 and de-register the company from the purview of the Sick Industrial Companies Act [SICA]. The writ petitions were ordered by this Court on 30.07.2008 in terms of the above said Memorandum of Understanding dated 28.05.2008.

2.12. It is the stand of the writ petitioner that in terms of the above said order, the Management had to implement the sanctioned Scheme 2003, which came into existence in the year 2005 and they did not implement the same and therefore, the Union filed a petition before BIFR on 14.05.2014 for a direction to implement the sanctioned Scheme 2003 and till such time, not to alienate the properties and the said petition is pending adjudication. The grievance expressed by the petitioner is that taking advantage of the Memorandum of Understanding, the Management expressed very keen interest in disposing of the land in Barracks Land Village in S.No.2201/2, which has been assigned to the Company under the Government Grants Act, 1895 and they wanted to sell it to a third person for several crores and therefore, he is constrained to approach this Court by filing this writ petition.

3. Mr.N.G.R.Prasad, learned counsel appearing for the petitioner has drawn the attention of this Court to the registered sale deed dated 29.04.1930 and would contend that since the essential and important conditions have been violated and that the said sale is nothing but a Government grant and once the conditions of grant are violated, it is open to the Government to resume lands in question by cancelling the patta granted in favour of the fifth respondent and would further contend that the fifth respondent is under statutory obligation to implement the sanctioned scheme which came into existence in the year 2003 and having given a complete go-by and in brazen and blatant violation of the conditions of settlement and indulged in real estate business so as to advance the personal interest of the promoters and the petitioner, being a member of all India political party and a former member of the Legislative Assembly, has approached this Court by filing this Public Interest Litigation. The learned counsel appearing for the petitioner has also drawn the attention of this Court to the decision in Kuppuswami Nainar v. The District Revenue Officer and another [(1995) 1 MLJ 426] and would contend that in the light of the ratio laid down in the said decision, the impugned order passed by the fourth respondent is wholly unsustainable. The learned counsel appearing for the petitioner has also invited the attention of this Court to the decision in Dunlop India Ltd., v. The Assistant Commissioner of Urban Land Tax Act [(1990) 2 MLJ 152] wherein it has been held that once the exempted land is not used for public purpose, the benefit of exemption under the Urban Land Tax Act cannot be made available to the land in question. The learned counsel appearing for the petitioner would further contend that since the conditions of grant are violated, the Government shall cancel patta and resume lands and prays for appropriate orders.

4. The Court heard the submissions of Mr.S.T.S.Moorthy, learned Government Pleader appearing for the respondents 1 to 4, who would contend that the reasons assigned in the impugned order are sustainable in law.

5. Mr.P.S.Raman, learned Senior Counsel appearing for the fifth respondent has invited the attention of this Court to the typed set of documents filed by the petitioner and would contend that the deponent of the affidavit has no locus standi to file this writ petition as he was one of the signatories to the Memorandum of

Understanding dated 28.05.2008. It is submitted that as per Clauses 7 and 8, the fifth respondent shall be at liberty to deal with the surrendered property as it deems fit and to proceed further in evicting the unauthorized illegal occupants and demolishing of such quarters in Barracks Land Village, Venkateswara Village, Belvedre Village and Carnatic Mill Village and the said fact has been suppressed in this writ petition. The learned Senior Counsel appearing for the fifth respondent has also invited the attention of this Court to the order dated 05.06.2008 made in A.No.72/2008 on the file of the AAIFR, wherein the order dated 13.03.2008 directing the BIFR to consider the application of the fifth respondent for de-registering the company from the purview of Sick Industries Companies Act (SICA) has been set aside and the order dated 30.07.2008 passed by this Court in W.P.Nos.18304 and 18117 of 2008, wherein it has been made clear that the fifth respondent company ceased to be a sick industrial company with effect from 30.08.2005 and would contend that in the light of the above said orders, the plea made by the petitioner is unsustainable on facts and in law and the present writ petition filed in the form of Public Interest Litigation is nothing but an abuse of process of law and prays for dismissal of the writ petition with exemplary costs.

6. This Court has considered the submissions made by the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 4 and the learned Senior Counsel appearing for the fifth respondent.

7. In W.P.No.14856 of 2003 dated 24.09.2003 [M/s.Binny Limited v. The Appellate Authority for Industrial and Financial Reconstruction- 2003 (4) CTC 733], the following issues arose for consideration:

> "Whether the 1st respondent, namely the Appellate Authority for Industrial and Financial Reconstruction (for brevity "the AAIFR") and 2nd respondent, namely the Board of Industrial and Financial Reconstruction (for brevity "the BIFR"), statutory authorities under the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985 (for brevity "the SIC Act") have exercised their discretionary powers conferred under the provisions of the SIC Act blended with the duty cast on them under the SIC Act, is the short, but, vital issue that arises for my consideration in the above writ petition, testing the same in the teeth of judicial review conferred under Article 226 of the Constitution of India, to render complete justice in order to achieve the object to the above legislation."

The learned Judge, in the said decision, after exhaustively and elaborately considering the facts and legal position, concluded as follows:

"10.18. For all these reasons, I am inclined to set aside the impugned order dated 24.2.2003 of the BIFR as well as the order dated 9.5.2 003 of the AAIFR, with the following directions:

(i) The promoter and the co-promoter (46th respondent) shall deposit a sum of Rs.7.55 Crores and Rs.34 Crores, respectively, in an interest bearing 'No Lien Account' with the Operating Agency (IDBI), within 10 days from today (or) on or before 3.10.2003, whichever is earlier;

(ii) The petitioner company, its subsidiary company BREAD, and the proposed purchaser (87th respondent), shall complete all necessary formalities such as transfer of shares, passing of necessary resolutions, getting clearance from the secured creditors, viz., financial institutions and Banks to whom 1260 grounds of land at Perambur, Chennai that belongs to the petitioner company, proposed to be sold are furnished as security, for transferring the said property to the proposed purchaser (87th respondent), free of all encumbrances within ten days from today (or) on or before 3.10.2003, whichever is earlier;

(iii) the proposed purchaser (87th respondent) shall deposit the entire balance sale price of Rs.56.10 Crores (Rs.62.10 Crores - Rs.6 Crores already paid), for the sale of 1260 grounds of land at Perambur, Chennai, in an interest bearing 'No lien account', with the Operating Agency (IDBI) within ten days from 3.10.2003 (or) on or before 13.10 .2003, whichever is earlier;

(iv) the Operating Agency (IDBI) shall move the BIFR for the sanction of the impugned scheme which also provides for the sale of 1260 grounds of land at Perambur, Chennai that belongs to the petitioner company, and the BIFR shall pass appropriate orders sanctioning the impugned scheme and giving consent for the sale of the said 1260 grounds of land at Perambur, Chennai that belongs to the petitioner company, within ten days from 13.10.2003 (or) on or before 23.10.2003, whichever is earlier. Since all necessary parties have expressed their no objection to the impugned scheme before this Court, no further hearing before BIFR is required in this regard;

(v) the Operating Agency (IDBI) shall transfer the said 1260 grounds of land at Perambur, Chennai that belongs to the petitioner company to the proposed purchaser (87th respondent) free from all encumbrances within ten days from the date of sanction of the scheme (or) on or before 2.11.2003, whichever is earlier;

(vi) the Operating Agency (IDBI) shall disburse the dues to the Secured Creditors, namely Financial Institutions, Banks and debenture holders as well as to the workers, after getting vacant possession of the quarters from the workers who are in occupation of the quarters and handing over the same to the petitioner company simultaneously, within ten days from the date of sanction of the scheme (or) on or before 2.11.2003 whichever is earlier;

(vii) The petitioner company shall submit a techno-economic vilable scheme for the Binny Engineering Limited through the Operating Agency and the Operating Agency shall after due scrutiny, forward the same to the BIFR for necessary approval within thirty days from the date of sanction of the impugned scheme;

(viii) the promoter, in order to show his bonafide to rehabilitate the petitioner's sick unit, shall also make a further deposit of Rs.1.5 Crores in addition to the sum of Rs.7.55 Crores, referred to in direction (i) above, within fifteen days from today (or) on or before 8.1 0.2003, whichever is earlier, with the Operating Agency (IDBI) in an interest bearing 'No lien Account', out of which Rs.50 Lakhs shall be kept as deposit in the interest bearing 'No lien account' with the Operating Agency (IDBI) till all the claims of the workers in all the pending cases, referred to above, are disposed of, however, the workers shall not have any right on the said deposit of Rs.50 Lakhs automatically towards their respective claim, as the said deposit amount of Rs.50 Lakhs shall be disbursed by the Operating Agency (IDBI) subject to the decisions in those cases and thereafter be utilized for the future rehabilitation of the petitioner's sick unit; and the promoters are at liberty to utilize the remaining amount of Rs.One Crore for shifting the petitioner's sick unit (textile mill) at Kancheepuram District and establishing a new textile mill as provided hereunder.

(ix) the promoter shall shift the impugned sick unit (textile mill) and establish a new textile mill over an extent of not less than 50 acres in Kancheepuram District within a period of 18 months from today, as per the following schedule:

a) the promoter shall complete the purchase of land of not less than 50 acres within a period of three months from today;

b) the promoter shall get necessary license, approval and sanction from all the statutory authorities; obtain electricity service connection; complete the construction of the new mill, installation of machinery, recruitment of employees, etc. within one year thereafter; and

c) the promoter shall commence the operation of the mill and start the production in full-fledge manner within an outer limit of eighteen months from today; and

(x) the BIFR shall oversee the implementation of all the above directions directly as well as by appointing the Operating Agency (IDBI) as the Monitoring Agency to monitor the progress of the above scheme periodically.

With the above direction, this writ petition is allowed. No costs. Consequently, all connected miscellaneous petitions are closed."

8. Subsequently, Madras Labour Union and B&C Mills Staff Union filed petition in Case No.48/93 before BIFR for implementation of the Scheme dated 22.10.2003 sanctioned by it pursuant to the above said order passed by this Court dated 24.09.2003 and a Memorandum of Understanding was entered into between the fifth respondent on the one side and B&C Mills Staff Union, Madras Labour Union and B&C Quarters Committee on the other side and it was signed by Mr.R.Vedharethinam, General Manager (Pers. & HRD.) on behalf of the Management and on behalf of the Union and Quarters Committee. In the said Memorandum of Understanding, the petitioner as well as office bearers of workers Union had signed it. The said document is available at Page No.391 of the additional typed set of documents-II filed on behalf of the writ petitioner and the contents of the said Memorandum of Understanding extract the earlier events. The said Memorandum of Understanding contains two parts i.e., (a) Conclusions of the Negotiation and (b) Other terms of settlement. The conclusions of negotiation deals with allotment of lands as well as gratuity and voluntary retirement scheme, compensation as well as wages. Condition No.A of conclusion of negotiation speaks about allotment of 500 sq.ft of land each to 244 workers listed in Annexures A, B, C and G, who are as on date occupying Barracks Land Village (subject matter of litigation), Carnatic Mill Village, Venkateswara Village and Belverde Village, free from any encumbrance and with a marketable title and the sale of the plots covered by Clause A to the workers shall be effected upon discharge of the company by BIFR/AAIFR and upon compliance by the workers/Unions/Quarters Committee as shown under Clause 1 of other terms of the settlement and that the allotment of lands will be given by drawal of lots conducted in the presence of Union representatives and the land shall be allotted to the workers authorized by the Unions, within 30 days from the date of receipt of order from the AAIFR and upon handing over vacant possession and simultaneously, the Management has liberty to demolish respective quarters.

9. It is also relevant to extract Clauses 2, 5, 6, 7, 8 and 9 of Other terms of Settlement:

2. The individuals, whose name are mentioned in the Annexure A, B and C occupying the quarters either by themselves/their heirs shall be paid their amounts due to them by virtue of this MOU, by way of a cheque upon discharge of the Company by the BIFR/AAIFR.

5. This Settlement makes it clear that all the workers in Annexure-A to I upon receipt of payment their claims/benefits in full quit and have no claim, whatsoever, monetary or otherwise, as against Binny Limited. Upon receipt of such payment those former employees/workers/their heirs shall have no claim of any kind against the Management, including recruitment, re-employment, reinstatement or any monetary claim against the Management of Binny Limited.

6. In the light of the settlement and of this MOU, the Union and the Workers hereby agree to withdraw all pending issues/cases/representations/petitions which are negotiated and settled between the parties during negotiation as fully settled.

7. Upon such resumption of possession from the workers covered by Clause 1 by the Management of Binny Limited, the Management shall be at liberty to deal with the surrendered property as it deems fit.

8. The Management shall be at liberty to proceed further with evicting the unauthorized illegal occupants and demolishing of such quarters in Barracks Land Village, Venkateswara Village, Belvedre Village and Carnatic Mill Village.

9. Both the Unions and workers shall, agree not to disrupt any steps/proposals which may be undertaken by the Management from time to time.

10. Subsequently, AAIFR took up the appeal filed by the fifth respondent in Appeal No.72/2008 for hearing and upon hearing the respective learned counsel appearing for the appellant as well as Labour and Staff Unions as well as Standing Counsel appearing for the Income Tax Department, has disposed of the appeal, vide order dated 05.06.2008 and it is relevant to extract paras 8, 9 and 10 of the said order:

"8. We find that the The Hon'ble Madras High Court vide its order dated 7.9.2007 in Writ Petition No.3817 of 2007 had set aside BFIR's order dated 26.12.2006 with a direction to give an opportunity to the two appellant unions to place their grievance and thereafter to pass appropriate orders in accordance with law. While issuing the direction the Hon'ble High Court also took note that a scheme had been framed in 2003 and this scheme had been acted upon. When the scheme was framed pursuant to the orders of the High Court, BIFR had the power to monitor the scheme u/s 18(2) of

SICA. Therefore, BIFR should not have rejected the petition of the appellant unions without according an opportunity of hearing.

9. During the pendency of the appeal the appellant company has arrived at a MOU with the two appellant unions who are the main contesting parties. Thus, in view of the settlement arrived at, the MOU dated 28.5.2008 is taken on record wherein it is noticed that the labour unions of the company have agreed to withdraw all their applications/petitions as filed before BIFR/AAIFR and other authorities. The appellant unions have no objection to the discharge of the company from the purview of SICA based on its ABS as on 30.9.2005.

10. We, therefore, set aside the impugned order dated 13.3.2008 and direct BIFR to consider the application of the company for deregistration of the appellant company from the purview of SICA based on ABS as on 30.9.2005 in the light of the judgments of Hon'ble High Court of Judicature of Madras in the case of Dunlop India Limited dated 19.12.2007 and Hon'ble High Court of Calcutta in the case of Zuari Agro Chemicals Limited dated 8.8.1995."

11. The effect of the order passed by AAIFR is that the fifth respondent company has been taken out of the purview of SICA and the said order was put to challenge by the Management as well as the Unions in W.P.Nos.18117 and 18304 of 2008. When the writ petitions were taken up for hearing, a joint memo signed by the parties as well as the counsel dated 29.07.2008 was submitted before the Court and the terms of which reads as follows:

"1. The management & the Unions hereby undertake to implement the terms and conditions of the MOU dated 28.05.2008.

2. The company namely Binny Ltd, with effect from 30.09.2005 will cease to be a Sick Industrial Undertaking within the meaning of clause (o) of subsection (1) of Section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 since its net worth from that date is positive.

3. In view of the above, the order dated 05, 062008 of AAIFR in Appeal No.72 of 2008 is not necessary insofar as the remand back to BIFR for deregistration from its purview is concerned and the matter will stand disposed off by this memo and orders thereon.

4. All proceedings before BIFR (Case No.48 of 1993) shall stand closed in view of his memo and orders there upon

since the unions are not pressing their petitions before BIFR as agreed in the MOU dated 28.05.2008."

12. The respective learned counsel appearing for the parties made a submission before this Court that both the writ petitions may be disposed of recording the joint memo dated 29.07.2008 and having taken note of the same, this Court, vide order dated 30.07.2008 has ordered the writ petitions and also by way of "Being Mentioned" order dated 05.08.2008 has stated that the petitioner company (fifth respondent herein) ceased to be a sick industrial undertaking with effect from 30.09.2005. It is very pertinent to point out at this juncture that subsequent to the above said order, Madras Labour Union as well as B&C Mills Staff Union, who are directly concerned with the welfare of the workmen, had moved BIFR, vide petition dated 14.05.2014 stating among other things that the Management taking advantage of the de-registration and the provisions of SICA, have not implemented the Sanctioned Scheme, 2003 regarding revival of the three units of the company namely (1) Binny Ltd., Perambur, Chennai (2) Binny Mills Ltd., Mylapore, Chennai-4 and (3) S.V.Global Mill Ltd., Chennai-1 and it has also hurriedly trying to dispose of the workers quarters in Barracks Land Village to a Real Estate dealer, namely Landmark Developers for a sale consideration of Rs.490 crores as against the estimated value of Rs.1000 crores and it also hurriedly disposing of the valuable properties of the company worth about 15000 crores and hence, prayed for following reliefs:

(i) To continue to monitor the implementation of the Sanctioned Scheme 2003 framed by the Hon'ble High Court, Madras in W.P.No.14856 of 2003 dated 24.09.2003 and the BIFR Order dated 23.10.2003 and to provide employment to the workers as envisaged therein.

(ii) To secure the assets of the Company as on the date of sanctioning of the Scheme by the High Court, Madras and BIFR in the year 2003 in the public interest.

(iii) To investigate into the affairs of the Company after deregistering from the purview of this Hon'ble Bench.

(iv) To direct the Company to settle all the pending issues of the workers before disposing of the assets of Company.

(v) To direct the Company to refund the relief and concession availed from various financial Institutions, Central & State Governments and other authorities under various schemes framed by BIFR with interest at 18% per annum and thus render justice."

The said petition filed by the Unions is pending.

13. The primordial contention put forward by the learned counsel appearing for the petitioner is that though the nomenclature of the document dated 29.04.1930 is termed as a sale deed, it is only a Government grant and since the conditions of grant have been violated, the Government shall cancel the patta and resume possession of the lands in terms of the Board Standing Order. In the considered opinion of the Court, the said submission lacks merit and substance for the reason that as per para 2 of the sale deed dated 29.04.1930, the property in question has been granted, conveyed and assigned at the price of Rs.1,40,000/-. As rightly contended by the learned Senior Counsel appearing for the fifth respondent that after independence, there cannot be any British subjects or Indian subjects and insofar as second Clause is concerned, it is the specific stand of the fifth respondent that in terms of Urban Land Tax Act, tax has been paid and necessary proof has also been produced and continued to be paid and insofar as location of Government quarters is concerned, the particular land was given exemption by the Government.

14. It is very important to point out at this juncture that the petitioner himself has signed the Joint Memorandum of Understanding dated 28.05.2008 and as already pointed out, as per Clause Nos.6 to 9 of Other terms of Settlement, the Management shall be at liberty to deal with the surrendered property as it deems fit and proceed further in evicting the unauthorized illegal occupants and demolishing of such quarters in Barracks Land Village, Venkateswara Village, Belvedre Village and Carnatic Mill Village and both the Unions and workers shall agree not to disrupt any proposals which may be undertaken by the Management from time to time. The said Joint Memorandum of Understanding was also taken cognizance by AAIFR in its order dated 05.06.2008 passed in A.No.72/2008, contents of which have been extracted in the earlier paragraphs and the said order is also put to challenge by the Management as well as Staff and Labour Unions in W.P.Nos.18117 and 18304 of 2008 and pendency of those writ petitions, the Joint Memo dated 29.07.2008 was filed and it was taken cognizance by this Court and the writ petitions came to be disposed of on 30.07.2008 and the said order has become final.

15. The petitioner, though a signatory to the Memorandum of Understanding dated 28.05.2008, did not make any challenge in respect of the order dated 05.06.2008 passed by AAIFR. The Madras Labour Union well as B&C Mills Staff Union, had raised the very same issue put forward by the petitioner in this writ petition, once again moved the BIFR, vide petition dated 14.05.2014 to continue the BIFR proceedings in Case No.48 of 1993 and monitor the implementation of the sanctioned scheme as per the order passed in W.P.No.14856/2003 dated 24.09.2003 and it is stated to be pending. This Court is not expressing any opinion on the merits or otherwise of the said petition. It is very pertinent to point out at this juncture that Labour Union as well as Staff Union, have not approached this Court and they have invoked their remedy before BIFR by filing the above

said petition dated 14.05.2014 and technically speaking, two parallel proceedings for the very same relief i.e., one before this Court in the form of present Public Interest Litigation and another petition before the BIFR by the workers union, cannot be prosecuted. Further, the decisions relied on by the learned counsel appearing for the petitioner have no application to the facts of this case.

16. The affidavit as well as the additional affidavit did not disclose the fact that the petitioner is also one of the signatories to the Memorandum of Understanding dated 28.05.2008 and at least till such time, he was actively espousing the cause of the workmen. However, in the typed set of documents filed by him, those documents find place. In the light of the said vital and important aspect, the petitioner cannot prosecute this writ petition by way of Public Interest Litigation and therefore, not entitled to any relief. Even otherwise, the fourth respondent has taken note of all prior events and by affording reasonable opportunity, rightly reached the conclusion to reject the representation given by the petitioner. This Court finds no error or infirmity in the impugned order.

17. Hence, for the reasons assigned above, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Principal Secretary,
The Government of Tamil Nadu,
Department of Land Revenue,
Secretariat, Fort St.George,
Chennai-600 009.

2.Inspector General of Registration,
Government of Tamil Nadu,
Raja Annamalaipuram,
Chennai-600 028.

3.The District Collector,
Collector Office,
1st Line Beach, Rajaji Salai,
Chennai-600 001.

4.District Revenue Officer,
Collectorate Office,
1st Line Beach, Rajaji Salai,
Chennai-600 001.

+1 cc to M/s.Row & Reddy, Advocate,SR.26048

+1 cc to Government Pleader,SR.26157

+1 cc to Mr.S.Ramesh, Advocate,SR.26186.

ku(co)
krd 9/6