

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(IN INSOLVENCY)

FRIDAY, THE 4TH DAY OF AUGUST 2017

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

APPLN.NO.179 OF 2017

IN

IP.NO.140 OF 2004

In the matter of the
Presidency Towns Insolvency
Act, III of 1909 and In the
matter of
1.K.Pitchaimuthu
2.Mrs.Meenakshi
... Debtors

IP.No.140 of 2004

1.K.Pitchaimuthu &
2.P.Meenakshi
Both residing at NO.1/1,
Venkatachala Naicken Street
Pudupet, Chennai-2

...Petitioners/Debtors

APPLN.NO. 179 OF 2017

A.J.Raja Mohamed,
S/o.Jaleel,
Old No.24, New No.121,
C.P.M.Street, Pudupet,
Chennai 600 002.

... Applicant

Vs.

1.The Official Assignee,
High Court of Madras,
Chennai- 600 104

... 1st Respondent

2.K.Pitchaimuthu

... 2nd Respondent/
1st Debtor

2.P.Meenakshi
W/o.K.Pitchaimuthu
Both residing at NO.1/1,
Venkatachala Naicken Street
Pudupet, Chennai-2

... 3rd Respondent/
2nd Debtor

Application praying that the Hon'ble Court be pleased to set aside the order dated 27.04.2017 passed by the 1st respondent forfeiting sale consideration of Rs.46,93,750/- paid by the applicant herein and consequently direct the 1st respondent to refund the said amount to the applicant herein.

The above application coming on this day before this court for hearing in the presence of Mr.Krishna Ravindran, advocate for the Applicant herein, the Official Assignee of this court, the 1st respondent herein and Mr.A.Babu, advocate for the 2nd respondent & 3rd Respondent/2nd & 3rd Debtor herein and upon reading the Judges Summons and affidavit of A.J.Raja Mohamed filed herein and the report and additional report of the Official Assignee filed herein, **The Court made the following order:-**

This application has been filed by the applicant/auction purchaser to set aside the order dated 27.04.2017 passed by the learned Official Assignee forfeiting the sale consideration of Rs.46,93,750/-paid by the applicant and to direct the 1st respondent/Official Assignee to refund the amount to the applicant.

2. It has been stated that pursuant of the auction conducted by the learned Official Assignee, the applicant had participated and initially paid a sum of Rs.5 lakhs

(Rupees Five lakhs only) as Earnest Money Deposit. He has also paid a further sum of Rs.45 lakhs (Rupees Forty Five lakhs only) which is 25% of the total sale consideration. However, he now seeks to withdraw his offer. He seeks to withdraw the offer, since he claims to be small business person and several persons who owe money have stopped repayment owing to demonetisation. He was not able to generate additional funds to the extent of sale consideration.

3. The report had been filed by the learned Official Assignee in which it had been stated that the Office of the learned Official Assignee had incurred expenses of Rs.2,61,269/-. The details are also given in the report.

4. Consequentially, the learned Official Assignee is at liberty to deduct the said sum of Rs.2,61,269/- (Rupees Two lakhs Sixty one thousand and two hundred and sixty nine only). This was as on July 2017. Giving consideration for the fact of any further expenses incurred by the learned Official Assignee the amount is rounded is to a sum of Rs.2,75,000/- (Rupees Two lakhs Seventy Five thousand only). This is to be deducted by the learned Official Assignee from the sum of Rs.45 lakhs (Rupees Forty Five lakhs only) paid by the applicant and the balance amount of Rs.42,25,000/- (Forty two lakhs and Twenty Five thousand

only) may be repaid to the applicant, by cheque in the name of Raja Mohamed, S/o.Jaleel, Old No.24, New No.121, C.P.M. Street, Pudupet, Chennai-600 002.

5. Application is closed.

WITNESS, THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 04TH DAY OF AUGUST 2017.

sd/-

ASSISTANT REGISTRAR(O.S.I)

//CERTIFIED TO BE TRUE COPY//
DATED THIS THE DAY OF 2017

MANAGER

INSOLVENCY OFFICE

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cns-22.08.2017

HIGH COURT, MADRAS

APPLN.No.179 OF 2017

IN

I.P.NO.140 OF 2004

THE HON'BLE MR.JUSTICE

C.V.KARTHIKEYAN

ORDER DATED:04.08.2017

FOR APPROVAL:28/08/2017

APPROVED ON :28/08/2017

COPY TO:-

THE OFFICIAL ASSIGNEE
HIGH COURT, MADRAS.