

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 2/1/2017

C O R A M

The Honourable Mr. Justice S. Manikumar
and
The Honourable Mr. Justice M. Govindaraj

Writ Petition No. 27529 of 2016

M/s. Vinplex India Pvt Ltd
rep. By its Director
Mr. K. R. Rangarajan
No. 1-B Gleneden Place
Old No. 813 New No. 310
P. H. Road
Kilpauk
Chennai 600 010.

... Petitioner

Vs

1. The Authorised Officer
Andhra Bank
Anna Nagar Branch
Old No. 995 JA/New No. 170
2nd Avenue
Annanagar
Chennai 600 040.

2. M/s. Vantage Resorts & Clubs Pvt Ltd
rep. By its Director
Mr. Senthilnathan
No. 89 Santhome High Road
Chennai 600 028.

3. The Presiding Officer
Debt Recovery Tribunal - I
DRT - I
Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the first respondent Bank to comply with the orders dated 8/12/2015 made in S.A.No.5 of 2013 on the file of the learned Presiding Officer, DRT - I, Chennai, third respondent herein by refunding the money along with Bank rate of interest to the petitioner.

For petitioner ... Mr.C.Kasirajan
For respondent ... Mr.R.Gowthamanarayanan
for R.1.
Mr.M.Rajesh for R.2.

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O R D E R

Auction purchaser, M/s. Vinplex India Private Limited, represented by its Director, Mr.K.R.Rajarajan, has sought for a writ of mandamus, directing Andhra Bank, Annanagar branch, to comply with the orders, made in S.A.No.5 of 2013, dated 8/12/2015, on the file of the Debts Recovery Tribunal - I, Chennai/third respondent, by refunding the money deposited with the Bank with interest.

2. Material on record discloses that M/s.Vantage Resorts & Clubs Private Ltd., represented by its Director, Mr.Senthilnathan, Chennai, borrower has filed S.A.No.5 of 2013, before the Debts Recovery Tribunal - I, Chennai, challenging the sale notice, dated 22/10/2012.

3. M/s.Vinplex India Private Ltd., Chennai is the eighth respondent in S.A.No.5 of 2013. After contest, the Debts Recovery Tribunal - I, Chennai, vide order, dated 8/12/2015, in S.A.No.5 of 2013, directed Andhra Bank, Chennai, to return the sale consideration, in respect of item No.2 of the schedule mentioned property, to the auction purchaser with Bank's rate of interest.

4. Record of proceeding shows that on 8/8/2016, this Court has ordered notice to the respondents, returnable by two weeks. On this day, when the matter came up for hearing, Mr.Gouthama Narayanan, learned counsel represented for Bank/first respondent submitted that being aggrieved by the order made in S.A.No.5 of 2013 dated 8/12/2014, on the file of the Debts Recovery Tribunal - I, Chennai, Andhra Bank, rep by its Authorised Officer/Chennai/first respondent, has filed R.A.(SA) No.2 of 2016. He further submitted that the writ petitioner/auction purchaser, has entered appearance in the appeal preferred by the Bank. After hearing the arguments of the contesting parties, orders are reserved by the Debts Recovery Appellate Tribunal. He therefore, submitted that the instant writ petition filed, writ petition has to be dismissed.

5. Mr.C.Kasirajan, learned counsel for the writ petitioner does not dispute the above said submission of the Bank.

6. Respondent Bank is entitled to file an appeal, against the order, directing return of sale consideration. In the appeal preferred by the Bank, when orders are reserved in RA (SA) No.2 of 2016 by the Debts Recovery Appellate Tribunal, Chennai, on the issue as to whether the auction purchaser is entitled for refund of the money deposited, it would not be appropriate to deal with the subject.

7. In the light of the above, this writ petition is dismissed. No costs.

s/d-

Assistant Registrar (CS-II)

//True Copy//

Sub-Assistant Registrar

To

1. The Authorised Officer
Andhra Bank
Anna Nagar Branch
Old No.995 JA/New No.170
2nd Avenue
Annanagar
Chennai 600 040.

2. The Presiding Officer
Debt Recovery Tribunal - I
DRT - I
Chennai.

+1 CC to Mr. C. KasiRajan Advocate sr 51

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