

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Writ Petition No.24295 of 2001

and connected MPs

M/s Rukmani Mills Limited
Silaiman 625 201
Madurai District

Petitioner

Vs

1. Board for Financial and
Industrial Reconstruction,
Jawahar Vyapar Bhawan,
1, Tolstoy Marg,
New Delhi 110 001.

2. The State of Tamil Nadu,
rep. By the Secretary to
the Government,
Industries Department,
Chennai 600 009.

3. Union of India,
rep. By the Secretary to Govt.,
Department of Industries,
New Delhi.

4. The District Collector,
Sivaganga.

5. The Tahsildar,
Manamadurai Taluk,
Sivaganga District

Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus to restrain the 4th and 5th respondents from proceeding with the auction of the petitioner's properties proposed to be held on 20th December 2001 either then or on any other date and issue such other

further or other writ or writs or directions in the nature of writ quashing the said proceedings.

For Petitioners : Ms.Susheelagiri for
Ms.S.Malliga

For Respondents : Mr.V.Jayaprakash Narayanan (R4&5)
Mr.Madana Gopal Rao (R3)

O R D E R

The petitioner is engaged in the business of processing Cotton into Yarn and was in business since 1954. Sometime in the year 1981, the petitioner Mill suffered huge losses on account of a fire accident and it became a Sick Industry. The petitioner Mill approached the BIFR under the Sick Industrial Companies Act and prayed for a rehabilitation scheme. While the proceedings before the BIFR was pending, the Mill Workers approached the authorities under the Payment of Gratuity Act, claiming Gratuity from the petitioner Mill. Admittedly, the matter was adjudicated by the Labour authorities and ultimately it was held that the petitioner was liable to pay Rs.16,81,801/- towards Gratuity and Deferral wages to their workmen. Since the payment was not forthcoming, the labour authorities referred the matter to the District Collector for initiating recovery proceedings under the Revenue Recovery Act. The District Collector, conducted an enquiry, in which, according to the petitioner, a sum of Rs.2 lakhs was paid and when no further amount was forthcoming, the Tahsildar issued a notice to bring the property of the petitioner to sale by public auction on 20.12.2001, challenging which, the petitioner filed the present writ petition.

2. When the matter was taken up for admission, this Court has granted an order of interim injunction on 12.12.2001.

3.Heard Ms.Susheelagiri, learned counsel for the petitioner, Mr.V.Jayaprakash Narayanan, learned Special Government Pleader for R4 and R5 and Mr.Madana Gopal Rao for R3.

4.It is the contention of the learned counsel for the petitioner that since the petitioner Mill became sick and it approached the BIFR for rehabilitation, no steps can be taken by the authorities to bring the property of the petitioner Mill to sale, in the light of Section 22 of the Sick Industries Act.

5.In the considered opinion of this Court, this contention is not sustainable, inasmuch as Section 22 of the Sick Industries Act does not give immunity to Sick Industry from payment of statutory dues like minimum wages, gratuity etc.,

that have been quantified by the labour authorities constituted under various Labour Enactments. That apart, the Sick Industrial Companies Act itself has been repealed by Sick Industrial Companies Repeal Act 2003 with effect from 01.12.2016.

6. In the result, the writ petition is devoid of merits and accordingly, the same is dismissed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. Board for Financial and
Industrial Reconstruction,
Jawahar Vyapar Bhawan,
1, Tolstoy Marg,
New Delhi 110 001.

2. The Secretary,
The State of Tamil Nadu,
Industries Department,
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Union of India,
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4. The District Collector,
Sivaganga.

5. The Tahsildar,
Manamadurai Taluk,
Sivaganga District

+1cc to M/s.T.Madanagopala Rao, Advocate SR.No.9614
+1cc to M/s.S.Mallika, Advocate SR.No.9450

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NR II (CO)
GN(10/04/2017)