



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **13.06.2017**
CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) No.409 of 2013

1.V.Chandra,
K.S.Vairavara (Died)
L.Palanichamy (Died)
2.Gomathiammal
3.Lakshmana Perumal : Appellants/Petitioners

Vs.

1.The Tamiladu Industrial Investment,
Corporation Ltd., rep by its
Branch Manager,
100, Railway Feeder Road,
Virudhunagar.
2.V.Veerasingh
3.P.Authi Narayanan : Respondents/ Respondents

PRAYER: Writ Appeal is filed under clause 15 of the Letters Patent, against the order passed by this Hon'ble Court in W.P. (MD).No.2528 of 2005, dated 08.09.2008.

Prayer in WP(MD). 2528/ 2005 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the proceedings in TIIC/VNR/LAO1/2004-05 dt. 11/03/05 on the file of the first respondent herein and to quash the same and to direct the 1st Respondent to account for and adjust the sale proceeds of the machineries with the loan amount and release the remaining amount including the fixed deposit, that was credited by the petitioner and waive the interest amount.

For Appellants : Mr.A.Rajini

For R1 : Mr.R.Divaharan
Standing Counsel
for M/s.D.Geetha

**JUDGMENT**

[Judgment of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.A.Rajini, learned counsel appearing for the appellants and Mr.R.Divaharan, learned counsel appearing for the first respondent.

2.This Writ Appeal is directed against the order passed in W.P.(MD) No.2528 of 2005, dated 08.09.2008.

3.The appellants borrowed commercial loan from the first respondent/TIIC for establishing paper manufacturing unit. Admittedly, the loan was not repaid as per the schedule and the petitioner was declared a defaulter. It appears that there was an one time settlement offer, which did not fructify. It is because the appellant failed to discharge the loan. Ultimately the primary and secondary securities to secure the loan transactions were taken over and were sold in public auction and handed over to the successful bidders. At that time the appellants addressed a communication to the District Collector dated 17.02.2005, objecting the auction sale. The said letter was forwarded to the first respondent/TIIC for an appropriate reply. Pursuant to that, the first respondent/TIIC sent a reply dated 11.03.2005, which was challenged in the Writ Petition.

4.The Writ Court rightly held that the petitioners having not questioned the auction and handing over of possession of the properties to the successful bidders cannot challenge the communication dated 11.03.2005. As of now, all the assets have been sold and fixed deposit which was given by the appellants has been adjusted as against the loan amount. Thus, the action initiated by the first respondent/TIIC is in respect of a loan transaction and the same being contractual, at this stage of the matter, this Court cannot restore status ante as already assets have been brought to sale and handed over to the successful bidders.

5.Since the appellants were not aware of the manner in which sale proceedings has been adjusted, We direct the first respondent/TIIC to furnish the entire statement of account to the petitioner to enable the petitioner to work out her remedy in the manner known to law.

6.We may add that the first respondent in their communication dated 16.01.2006, before bringing the property for public auction, permitted the petitioner to participate in the sale. Therefore, we are of the view that the order passed in the Writ Court is perfectly justified.



7. In the light of the above, the Writ Appeal is dismissed with a direction to the first respondent to furnish the statement of accounts to the appellant within a period of two weeks from the date of receipt of a copy of this order so as to enable the appellant to workout her remedy in accordance with law.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

+1 cc to Mr.A.Rajini , Advocate in SR.No. 59903

+1 cc to Ms.D.Geetha , Advocate in SR.No. 59928

Is

AE/MR/SAR3/28.06.2017/3P/3C

ORDER MADE IN
W.A. (MD) No.409 of 2013
Dated:13.06.2017