

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.28319 of 2013

and

M.P.No.1 of 2013 & W.M.P.No.31443 of 2018

Manichandran

... Petitioner

Vs

- 1.The General Manager,
District Industries Centre,
Nagapattinam.
- 2.The Secretary,
Micro, Small and Medium Enterprises Department,
Ministry of Industries,
Govt. of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
- 3.The Managing Director,
Tamil Nadu Industrial Investment Corporation,
Chennai.
- 4.The Senior Regional Manager,
Indian Overseas Bank,
Naduvar East Street, LRJ Complex,
Nagapattinam - 611 001.
- 5.The Branch Manager,
Indian Overseas Bank,
Mannargudi,
Tiruvarur District.
- 6.The Branch Manager,
Indian Overseas Bank,
Velankanni,
Nagapattinam District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in his

R.C.No.2847/D4/2013 dt.04.10.2013, quash the same and consequently directing the other respondents to implement the Micro, Small and Medium Industries Policy, 2008 issued by the Micro, Small & Medium Department of Government of Tamil Nadu in letter and spirit in disposing of the application of the petitioner referred to in the impugned order cited above.

For Petitioner : Mr.Anil Ralwani

For Respondents: Mr.R.S.Selvam
Government Advocate for R1 and R2

: Mr.M.Paul Raj for R3

: Mr.L.Dhamodaran for R4 to R6

O R D E R

The proceedings of the 1st respondent dated 04.10.2013, returning the application submitted by the writ petitioner for rehabilitation of his unit, is under challenge in this writ petition.

2.The learned counsel for the writ petitioner expressed the agony experienced by the writ petitioner, after borrowing loan from the respondent Bank. Undoubtedly, the writ petitioner made a sincere attempt to develop his business activities, but, failed at one point of time and was not in a position to repay the loan installments. Admittedly, the writ petitioner is a defaulter in payment of his loan dues. However, he made a submission for declaring his unit as a sick enterprise and for rehabilitation of the same, as per the Micro, Small and Medium Industries Policy, 2008, which has been introduced by the State Government of Tamil Nadu with an object to provide an opportunity to the sick units for rehabilitation.

3.The learned counsel for the petitioner states that under the said scheme, the petitioner is entitled for certain benefits in respect of repayment of loan dues and accordingly, the petitioner had filed an application for consideration. The said application was returned on the ground that the respondents discussed the merits and demerits and accordingly, have taken a decision to reject the application.

4.The learned counsel for the respondent Bank states that the writ petitioner is a chronic defaulter and as on 19.05.2018, the outstanding amount due towards the loan was Rs.55,22,104/-. This being the factum, the writ petitioner is not entitled to avail the benefits under the scheme of rehabilitation, introduced by the State Government.

5.This Court is of an opinion that the property of the writ petitioner, worth about two crores, has been mortgaged with the respondent Bank. This apart, the machinery commissioned in the factories have been hypothecated with the Bank. Therefore, this Court is of an opinion that security aspects are covered by mortgaging the property worth more than the loan dues. Hence, the case of the writ petitioner deserves to be considered for rehabilitation.

6.The learned counsel for the writ petitioner states that the writ petitioner is a middle aged person and is aspiring to revive his business activities, so as to show progress in the business.

7.In view of the submission made by the writ petitioner, this Court has to consider the merits in a pragmatic manner, so as to grant some relief and an opportunity to the writ petitioner for revival of his business. To establish bona fide, the writ petitioner undertakes that he will deposit a sum of Rs.25,00,000/- (Rupees Twenty five lakhs only) with the respondent Bank within a period of eight weeks from the date of receipt of a copy of this order.

8.Accordingly, the following orders are passed :

(i) The impugned order passed by the 1st respondent in R.C.No.2847/D4/2013 dated 04.10.2013 is quashed.

(ii) The writ petitioner is directed to deposit a sum of Rs.25,00,000/- (Rupees Twenty five lakhs only) and submit an application for rehabilitation to the competent authorities, within a period of eight weeks from the date of receipt of a copy of this order.

(iii) On receipt of such payment and application, the authorities competent are directed to consider the application submitted by the writ petitioner favourably for extending the scheme of rehabilitation of sick units to the writ petitioner also, within a period of four weeks from the date of deposit of the said amount of Rs.25,00,000/-

9.With the above directions, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

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- 6.The Branch Manager,
Indian Overseas Bank,
Velankanni,
Nagapattinam District.

+1cc to Mr.M.Paul Raj, Advocate Sr.75829
+1cc to Mr.C.Damodaran, Advocate Sr.75753
+1cc to Mr.Anil Relwani, Advocate Sr.75720
+1cc to the Government Pleader Sr.76479

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