

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.10.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.2844 of 2013

and

M.P.No.2 of 2013

Mr.S.Gandhidoss

..Petitioner

vs

1.The State of Tamil Nadu,
rep.by its Secretary,
Department of Agriculture,
Fort St.George,
Chennai - 600 009.

2.State Bank of India, rep.by its
Chief Manager(Authorised officer)
137, Jawaharlal Nehru Street,
Tindivanam - 604 001.
Villupuram District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, Call for the records of the 2nd respondent relating to the Tender cum Auction Notice dated 21.1.2013 published in Newspaper Dinathanti on 23.1.2013 call for the tender for sale of Farm Trac-60 Model Tractor bearing Reg. No.TN 32 T 8443 pertaining to Loan Account No.30202105365 and quash the same and consequently directing the 2nd respondent not to bring the agriculture material of the petitioner's Tractor bearing Registration Number TN-32-T-8443 Farm Trac-60 Model without following due process of law.

For Petitioner : Mr.P.Thiagarajan

For Respondent : M/s.A.Shrijayanthi, for R1
Mr.C.P.R.Kamaraj for R2

O R D E R

The relief sought for in this writ petition is to quash the Tender cum Auction Notice dated 21.1.2013 published in Newspaper Dinathanti on 23.1.2013 call for the tender for sale of Farm Trac-60 Model Tractor bearing Reg. No.TN 32 T 8443.

2.The writ petitioner borrowed vehicle loan for the purpose of purchase of Tractor and the loan was sanctioned by the State Bank of India. The petitioner states that he is a poor agriculturist and fully depending upon the income from and out of the agricultural activities. The petitioner availed the loan amount of Rs.6,10,000/-(Rupees Six Lakh and Ten Thousand only) from the 2nd respondent Bank. The petitioner has given his immovable property as a security towards the loan amount. The petitioner initially was repaying the dues promptly on account of the some personal issues and loss occurred to the writ petitioner, he was unable to pay the monthly instalments to the Bank. The respondent Bank has taken action to sell the tractor purchased from and out of the loan amount. Thus, the writ petitioner is constrained to move the present writ petition.

3.When the matter was called on 23.10.2018, none appeared for the 2nd respondent / State Bank of India. The State Bank of India has not filed their counter affidavit for the past about five years. Thus, this Court directed the 2nd respondent / Chief Manager, State Bank of India to be present before this Court along with the files today (26.10.2018).

4.Today, the 2nd respondent / Mr.P.Swaraj, Chief Manager, State Bank of India, Tindivanam Branch, J N Street, Villupuram District - 604 001 is present before this Court. He made a submission that the writ petitioner availed the loan amount of Rs.6,10,000/-(Rupees Six Lakh and Ten Thousand only). He was a chronic defaulter. Thus, the Bank has taken action and accordingly, the Tractor seized from the writ petitioner, was sold for a amount of Rs.2,11,000/-(Rupees Two Lakh and Eleven Thousand only). The said amount was already appropriated towards the loan dues. The total loan dues as of now is about Rs.16,00,000/- (Rupees Sixteen Lakh) and the appropriated amount from and out of the sale amount of the Tractor was Rs.2,11,000/- (Rupees Two Lakh and Eleven Thousand only) alone.

5.The balance amount loan dues are to be recovered from the writ petitioner. The Chief Manager informed these facts to this Court. However, when a question is asked by this Court to the Chief Manager, why a counter affidavit has not been filed for about five years? he has no convincing reason. He said that he will look into the matter with the office.

6.This Court is of an opinion that such a reply is not sufficient in respect of the question raised by this Court. The competent officials of the State Bank of India is expected to be vigil over all such administrative affairs. The Rule Nisi notice was issued by the High Court in the year 2013 itself and the same was received by the Bank on 18.02.2013 itself. Having received the High Court notice, the 2nd respondent Bank has not even cared to respond to the

notice for the past about five years. Such a conduct of the public officials are to be deprecated. Whenever a Court notice is received, then the competent officials are duty bound to act immediately and file counter affidavits within a reasonable period of time. Even five years, no counter has been filed and when the matter was called for final hearing, none appeared for the respondents. This shows the inefficient administration of the State Bank of India in dealing with the Court cases, warranting immediate action against all concerned.

7. Decent salary has been paid to the State Bank of India employees from and out of the Bank funds. When they are appointed in a public post and receiving a decent salary. Thus, they are expected to perform their duties and responsibilities in the interests of public and for the welfare of the Bank Administration. Any failure, lapses, negligence or dereliction of duty, must be dealt with strictly and there cannot be any leniency or misplaced sympathy in this regard.

8. As far as the present writ petition is concerned, the writ petitioner is a chronic defaulter. The petitioner has not repaid the loan amount as per the terms and conditions of the loan agreement. Thus, the actions taken by the Bank is in accordance with law and there is no infirmity as such. However, the State Bank of India is bound to initiate action to recover the balance arrears by following the procedures as contemplated.

9. Thus, the writ petitioner has not established any legal ground for the purpose of considering the relief as such sought for, pursuant to the impugned Auction notice, the Tractor was also auctioned and the sale amount was appropriated towards the loan dues.

10. This Court is of an opinion that the Chief General Manager, State Bank of India, Nungambakkam, Chennai - 6 has to initiate appropriate action against all such erring officials and issue suitable instructions to respond to the Court notices within a reasonable period of time. This Court has already issued directions and pursuant to the directions, the Registrar General of the High Court also issued circulars, stating that the counter affidavits in the writ petitions are to be filed within a period of three months from the date of receipt of a copy of the notice from the High Court. However, in the present case on hand, even after a lapse of five years from the date of receipt of notice, the 2nd respondent / State Bank of India has not filed any counter affidavit. Thus, the Chief General Manager, State Bank of India, Nungambakkam, Chennai - 6 is directed to initiate appropriate disciplinary action against all the officials concerned, who all are responsible for such lapses, negligence and dereliction of duty within a period of eight weeks from the date of

receipt of a copy of this order.

11. Accordingly, the present writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS viii)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu,
rep. by its Secretary,
Department of Agriculture,
Fort St. George,
Chennai - 600 009.
2. State Bank of India, rep. by its
Chief Manager (Authorised officer)
137, Jawaharlal Nehru Street,
Tindivanam - 604 001.
Villupuram District.
3. The Chief General Manager,
State Bank of India,
College Road,
Nungambakkam,
Chennai - 6.

+1cc to Mr. C.P.R. Kamaraj , Advocate SR.No. 73436
+1 CC TO GOVERNMENT PLEADER SR.NO. 74343

W.P.No.2844 of 2013

ASK(16/11/2018)

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