

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.A.No.368 of 2018
and
C.M.P.No.2970 of 2018

M/s.Ashok Kumar Hotels (Cuddalore) Pvt. Ltd.,
Rep. by its Director S.Ashok Kumar,
RS No.40/18-A2 & 40/18-B,
Panruti Main Road, Kondur Village,
Cuddalore. .. Appellant

Vs.

1. The Tamil Nadu Industrial Investment Corporation Ltd.,
Rep. by its Managing Director,
No.692, Anna Salai,
Nandanam, Chennai-600 035.
2. The Tamil Nadu Industrial Investment Corporation Ltd.,
Rep. by its Branch Manager,
No.1, Bharathi Road,
Arcot Woodland (Annex),
III Floor, Cuddalore. .. Respondents

Writ Appeal filed Clause 15 of the Letters Patent against the order dated 10.09.2014 passed by the learned Single Judge in W.P.No.34230 of 2013 on the file of this Court.

W.P.34230 of 2013:-

Writ Petition files under Article 226 of Constitution of India praying for the issue of a Writ of Certiorarified Mandamus Directing the respondents herein to accept the onetime settlement of the petitioner as per the new policy of the respondents dated 1.8.2013 vide TIIC/ HO/Rec/5 (b)/ 2013-14 - Circular No.3 by receiving the balance amount of Rs.24,75,555/- within the time frame as may be fixed by this Court.

For appellant : Mr.M.R.Sivakumar

For respondents : Mr.K.Mahesh

JUDGMENT

(The Judgment of the Court was delivered by S.Vaidyanathan, J)

Challenging the order of dismissal passed by the learned Single Judge in W.P.No.34230 of 2013, dated 10.09.2014, the present Writ Appeal is filed by the writ petitioner.

2. The prayer in the Writ Petition in W.P.No.34230 of 2013 filed by the appellant/writ petitioner is for issuance of a Writ of Certiorarified Mandamus to direct the respondents to accept the One Time Settlement (for short, "OTS") of the petitioner as per the new policy of the respondents, dated 01.08.2013, vide TIIC/HO/Rec/5(b)/2013-14-Circular No.3, by receiving the balance amount of Rs.24,75,555/- within the time frame as may be fixed by this Court.

3. According to the appellant/writ petitioner-Hotel, they have availed financial assistance from the respondents and the amount could not be repaid. The appellant/writ petitioner submitted that there was an OTS proposal and that the said request of OTS was rejected, against which, the Writ Petition was filed, which was dismissed by the learned Single Judge on the ground that quoting the amount due and that the loan availed is also of the year prior to 2004, the benefit of OTS could not be extended. The only contention of the learned counsel for the appellant/writ petitioner is that another borrower has been extended the benefit of OTS and that the appellant/writ petitioner has not been given the said benefit. In this case, when the writ petitioner was given time to avail the said OTS, he did not accede to the same and even after the proposal of OTS, the writ petitioner did not avail the same, as could be seen from the communication of the respondents/TIIC, dated 22.09.2016 addressed to the appellant/writ petitioner.

4. This Court cannot sit on the administrative side over the matter in issue and compel the respondents/TIIC or the Bank to accept the OTS and that the request of the petitioner to accept OTS, cannot be acceded to in this case. We do not find any error in the findings rendered by the learned Single Judge in dismissing the Writ Petition. The impugned order passed by the learned Single Judge does not warrant any interference by this Court and the Writ Appeal is liable to be dismissed.

5. If any amount is paid by the appellant/writ petitioner pursuant to the orders passed by this Court in C.M.P.No.20453 of 2016 in W.A.S.R.No.86486 of 2014, dated 04.01.2018 and 11.01.2018, towards the amount due to the respondents/TIIC, the said amount shall be adjusted out of the balance/outstanding amount due to be paid by the appellant/writ petitioner. It is to be noted that in the said order dated 11.01.2018, this Court has observed that if the OTS proposal offered, is not acceptable, the Demand Draft for Rs.25,00,000/- (Rupees twenty five lakhs only) handed over to the learned counsel for the respondents-TIIC, will not be encashed and the same will be returned to the

appellant/writ petitioner. The said order dated 11.01.2018 is only passed as an interim measure. The appellant/writ petitioner is liable to pay several Crores of Rupees due to the respondents, and that the amount of Rs.25,00,000/- that was paid by way of Demand Draft as stated supra, is only a pittance, and that the said amount of Rs.25 lakhs paid by the appellant/writ petitioner by way of the said Demand Draft, shall be encashed by the respondents, with liberty to proceed against the appellant/writ petitioner claiming the balance/outstanding amount due from the appellant/writ petitioner.

6. With the above observations and direction, the Writ Appeal is dismissed. No costs. Consequently, C.M.P. is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
The Tamil Nadu Industrial Investment
Corporation Ltd.,
No.692, Anna Salai,
Nandanam, Chennai-600 035.
2. The Branch Manager,
The Tamil Nadu Industrial Investment
Corporation Ltd.,
No.1, Bharathi Road,
Arcot Woodland (Annex),
III Floor, Cuddalore.

+1 CC TO MR.M.R.Sivakumar, Advocate SR. No.18794
+1 CC TO MR.M.R.Sivakumar, Advocate SR. No.19072.
1 cc to Mr. K. Magesh, Advocate, Sr. 18349 (4/6/18)

W.A.No.368 of 2018

LRS (CO)
RMP (03/04/2018)