

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice N.ANAND VENKATESH

W.A.No.1546 of 2010 against WP. 19413/2009
and
M.P.No.1 of 2010

M/s.Goenka Infrastructures (P) Ltd.,
rep. by its Senior Manager
T.K.Ravindran

.. Appellant/Petitioner

Vs

1.The Recovery Officer,
E.S.I. Corporation,
Puducherry Region,
Bouvankare Street, Mudaliarpet,
Puducherry - 605 004.

2.The Chairman and Managing Director,
M/s.IDBI Bank Ltd.,
IDBI Tower, WTC Complex,
Cuffe Parade, Mumbai - 400 005.

3.M/s.Protchem Industries (India)
Ltd., F-105, 3rd Street,
Behind Valliammal College,
Annanagar East, Chennai - 102.

.. Respondents /Respondent

Appeal preferred under Clause XV of Letters Patent against the order dated 08.06.2010 made in W.P.No.19413 of 2009.

W.P.No.19413/2009 : This Writ petition are filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari calling for the records on the file of the first respondent relating to the impugned order dated 14/09/2009 bearing Ref.No.55-21492-34 and quahs the same and consequently for bear the first respondent from in any manner proceeding against the petitioner or the property in respect of the dues to be paid by the third respondent (WP.No. 19413/2009)

For Appellant .. Mr.Sai Krishnan
for M/s.Sai, Bharath and Ilan

For Respondents.. Mr.C.Sethu
for Mr.K.C.Ramalingam for R1
Mr.Shivakumar for R2
No appearance for R3

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

The appellant, being the auction purchaser, has come forward to file the writ petition challenging the impugned notice dated 14.09.2009 by which the appellant was directed to handover physical possession pursuant to symbolic possession already recorded for payment of E.S.I. arrears. The writ petition was dismissed by the learned single Judge by order dated 08.06.2010, against which, the present writ appeal has been filed.

2.Heard the learned counsel appearing for the parties.

3.A perusal of the records would show that admittedly the appellant has not been heard. Though the learned counsel for the first respondent would submit that the vendor of the appellant has been served, the fact remains that the appellant has not been served except the impugned notice. Admittedly, the impugned notice has got civil consequences. It is in the nature of final order. Therefore, we are of the view that the order of the learned single Judge requires to be interfered with.

4.In such view of the matter, the order of the learned single Judge is set aside. The impugned notice dated 14.09.2009 also stands set aside. Consequently, the first respondent is directed to issue a fresh show cause notice indicating his intention to have the possession. The appellant will have to be given sufficient time to give reply to the said notice. After receiving the reply to be given by the appellant, the final order can be passed.

5.In the result, the writ appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

mmi

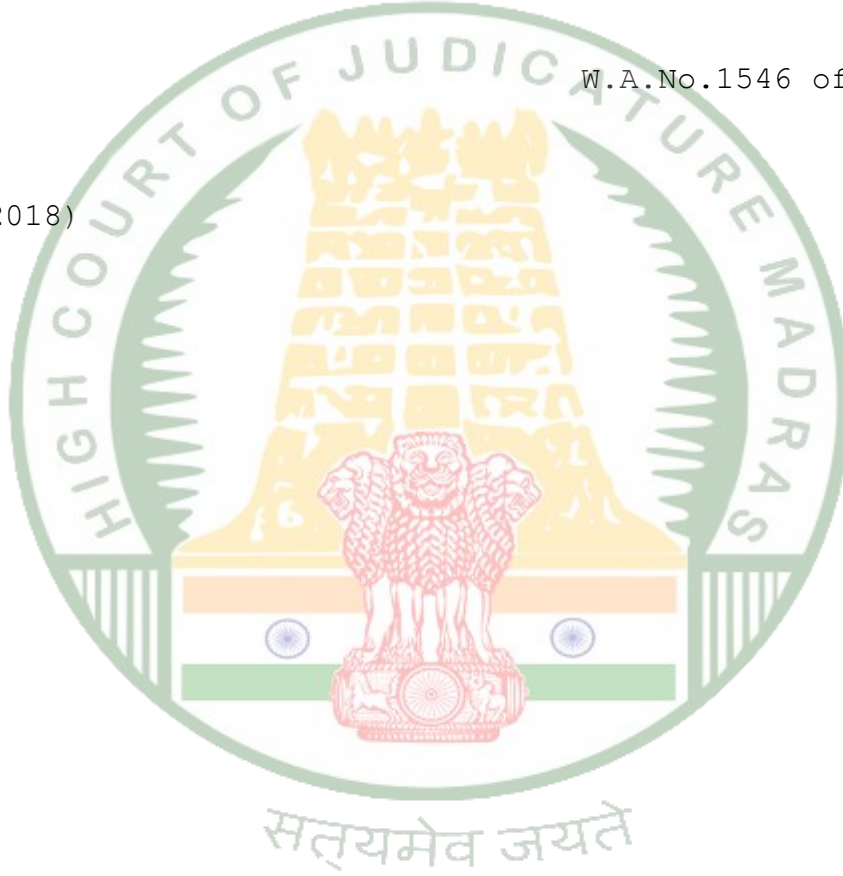
To

The Recovery Officer,
E.S.I. Corporation,
Puducherry Region,
Bouvankare Street, Mudaliarpeta,
Puducherry - 605 004.

+lcc to Mr.Shiva Kumar & Suresh, Advocate SR.No.45256
+lcc to Mr.K.C.Ramalingam, Advocate SR.No.45066
+lcc to Sai bharath & Ilan, Advocate SR.No.45516

W.A.No.1546 of 2010

RJ (CO)
GN(30/07/2018)



WEB COPY