

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2018

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. No.20857 of 2003
and
W.P.M.P. No.25931 of 2003

C.Sivashankara Subramanian ... Petitioner

Vs.

1. The Director,
The Tamilnadu Industrial Investment Corporation Ltd.,
Head Office Arul Manai, No.27 Whites Road,
Chennai - 600 014.
2. The Branch Manager,
The Tamilnadu Industrial Investment Corporation Ltd.,
Sakunthala Shopping Complex,
5C/CB II Floor, Trivandrum Road,
Vannarpettai, Tirunelveli - 3.
3. S.Murugasen
4. Boomari
5. The Government of Tamilnadu,
Represented by its Secretary,
Industries Department,
Govt. of Tamilnadu, Fort St.George,
Chennai - 9.

सत्यमेव जयते ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the auction of the Petitioner's Modern Rice Milling Unit situated in S. No. 376/15B, T.N. Pudukudi, Sivagiri, Tirunelveli is null and void and direct the repossession of the mill to the Petitioner and direct the refund of the Rs.1.5 lakhs which was paid as interest with interest and award exemplary costs.

For Petitioner	:	Mr.P.Thirunavukkaras
For R1 & R2	:	Ms.Rita Chandrasekar for M/s.Aiyar & Dolia

For R5 : Mr.K.S.Suresh, Government Advocate
For R3 & R4 : No appearance

O R D E R

The Petitioner had availed a loan on 08.11.1994 from the Second Respondent, viz., Tamil Nadu Industrial Investment Corporation Limited, for setting up a new modern rice milling unit under the name and style of 'M/s. Sri Ram Kumar Rice Mill' situated in S. No. 376/15B, T.N. Pudukudi, Sivagiri, Tirunelveli District, which was mortgaged to the Second Respondent as security for the same. Thereafter, the Petitioner committed default in payment of the loan and the mortgaged property was brought for sale through public auction and the bid was confirmed in favour of the highest bidder viz., the Third Respondent, who had entered into an agreement with the Petitioner earlier to purchase the same property, and the possession of that property was handed over to him on 18.07.2003. Pursuant to the same, a sale deed was also executed on 06.08.2003 in favour of the Third Respondent. The Petitioner has filed this writ petition to declare the auction of the Modern Rice Milling Unit of the Petitioner as null and void and consequently, direct the repossession of the mill to the Petitioner and refund of Rs.1.5 lakhs, which was paid as interest, with interest and award exemplary costs.

2. In the absence of the Petitioner showing any proof of having discharged the liability owed by him for the loan taken from the Second Defendant before the conduct of the auction sale or any material irregularity or any specific violation of the rules governing the conduct of the auction sale by the Second Respondent, this Court does not find any infirmity for declaring the same as null and void.

3. It is further brought to the notice of this Court by the learned Counsel for the First and Second Respondents that the entire loan taken by the Petitioner from the Second Respondent had not got discharged even after the impugned sale of the mortgaged property in public auction, and that the owner of the collateral security, viz., A. Neeravai, had thereafter settled the balance amount due to the Second Respondent under one time settlement and closed the account. A memo dated 24.07.2018 has been filed by the learned Counsel for the First and Second Respondents to the effect that nothing remains to be collected from the Petitioner in respect of that loan, which is recorded.

4. As there are no merits in the Writ Petition, the same is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Director,
The Tamilnadu Industrial Investment Corporation Ltd.,
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Chennai - 600 014.
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5C/CB II Floor, Trivandrum Road,
Vannarpettai, Tirunelveli - 3.
3. The Secretary,
Government of Tamilnadu,
Industries Department,
Govt. of Tamilnadu, Fort St.George,
Chennai - 9.

+1cc to Mr.P.Thirunavukarasu, Advocate, S.R.No.51146

+1cc to the Government Pleader, S.R.No.51429

W.P. No. 20857 of 2003

KK(CO)
GSP(26/09/2018)

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