



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.24029 of 2008

A.S.Periyasamy

..Petitioner

vs

1. The Managing Director,
Tamil Nadu Industrial Investment Corporation Ltd,
692, Anna Salai, Nandanam, Chennai-35.
2. The Inspector of Police,
B-8 V.H.Road Police Station(Crimes)
Coimbatore City,
Coimbatore.
3. P.Jayageetha
(R3 impleaded vide order dated 24/04/2019
made in M.P.No.1/2011 in W.P.No.24029/2008) ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings No.TIIC/HO/Legal/2008-09, dated 18.09.2008 and quash the same consequently directing the 1st respondent to return the amount of Rs.20/- lakhs, which was deposited by the petitioner as advance for One Time Settlement to take over M/s.Sri Kamalaganapathy Steel Rolling Mills, Namakkal on 27.11.2006 and 04.12.2006 to the petitioner.

For Petitioner : Mr. C.Prakasam

For Respondents : Mr.K.V.Sundarajan, for R1.
Mr.A.Zakir Hussain,
Government Advocate for R2.
Mr.Ramesh Nagarathinam for R3.

O R D E R

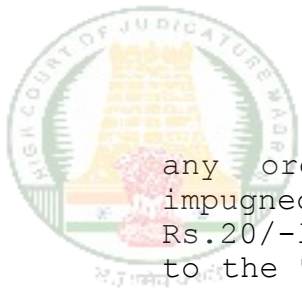
The petitioner has filed the present Writ Petition for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st



respondent in his proceedings No.TIIC/HO/Legal/2008-09, dated 18.09.2008 and quash the same and direct the 1st respondent to return the amount of Rs.20/- lakhs, which was deposited by the petitioner as advance for one time settlement, to take over M/s.Sri Kamalaganapathy Steel Rolling Mills, Namakkal on 27.11.2006 and 04.12.2006, to the petitioner.

2. The case of the petitioner is that the petitioner is running steel and transporting business in all over Tamil Nadu for the past several years. The petitioner came to know that one Kamala Ganapathy Steel Rolling Mills Ltd, Namakkal has become a sick unit and the said Mills could not repay the loan amount to the respondent herein and hence, the 1st respondent herein took steps for closure of the said Steel Mills. At that time, the petitioner had approached the 1st respondent herein through the above said Mill for One Time Settlement (hereinafter referred to as 'OTS') by waiving interest and penal interest for handing over the management to the petitioner. In this connection, the petitioner has deposited Rs.20/- lakhs as no-lien deposit with the 1st respondent herein. This deposit was made by the petitioner with the 1st respondent on 27.11.2006 and 04.12.2006. The said Kamala Ganapathy Steel Mills and TIIC have not come to an understanding with regard to OTS and for the past two years, the petitioner also tried to settle the issues them. But all efforts were fruitless and the petitioner requested the 1st respondent herein by way of making several representations, to refund the amount of Rs.20/- Lakhs and the petitioner have no interest to purchase the said Steel Mills. Aggrieved by the same, the present writ petition is filed.

3. The learned counsel for the petitioner stated that there was false complaint made against the petitioner with regard to purchase of jewels in a jewellery shop. In this connection, the B-8 Police Inspector, the 2nd respondent herein arrested the petitioner and obtained signatures from him under threat and coercion in their custody as if, that the petitioner has pledged the jewels with banks and borrowed the amount, from which amount, the petitioner has deposited the above said Rs.20/- lakhs with the 1st respondent. The above said statements are not voluntarily made, but due to assault and threat. But the police have not recovered the said amount from TIIC and not produced under Form-95 before the concerned Judicial Magistrate Court. The petitioner filed a writ petition in W.P.No.18790 of 2008 on 05.08.2008 before this Court and this Court is directed the Managing Director, TIIC, Nandanam, Chennai-35 to pass orders on merits on the representation made by the petitioner on 06.10.2007 within a period of six weeks from the date of receipt of a copy of the order. The 1st respondent herein has not passed



any orders, but finally on 18.09.2008 passed the present impugned order, whereby he refused to return the amount of Rs.20/-lakhs on the ground that the police have written a letter to the TIIC officials not to return the amount to the petitioner and hence, the 1st respondent is keeping the said amount of Rs.20/- lakhs and refused to return it to the petitioner.

4. The learned counsel further stated that the 1st respondent has failed to consider that Section 102 of Cr.P.C has not given any powers to the 2nd respondent to write such letter to the 1st respondent without any Court order requesting not to return the said amount of Rs.20/- lakhs to the petitioner. The action of the respondent is illegal and arbitrary and that there is no single evidence or proof to prove that the petitioner has pledged jewels and borrowed the amount, out of which the said amount was deposited with the 1st respondent. Since no settlement had been arrived at between the borrower and the TIIC authorities, the petitioner asked the TIIC authorities to return the amount of Rs.20/- lakhs.

5. The learned counsel for the 1st respondent, stated that the Inspector of Police, Crime, B8-VH Road Police Station, Coimbatore has written a letter to the 1st respondent on 24.12.2007 and requested them not to release the amount to the petitioner or to anyone without the order of the Court or from the Inspector of Police. The Judicial Magistrate No.V, Coimbatore vide letter D.No.1530 dated 06.11.07 directed the respondent not to disburse the amount deposited. The said amount of Rs.20,00,000/- received for OTS proposal of M/s.Sri Kamalaganapathy Steel Rolling Mills Limited could not be returned to the petitioner due to the prohibitory orders passed on 24.12.07 in Crime No.1216/06 of Coimbatore City Police. The petitioner approached this Court by way of Writ Petition No.18790 of 2008 and this Court directed the respondent corporation to consider the same and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this Order. This respondent Corporation considered the facts of the case and the letter received from Inspector of Police, Coimbatore City, and decided to withhold payment of Rs.20,00,000/- deposited by the petitioner as it was a subject matter of proceedings before the Criminal Court. The above decision was duly informed to the petitioner on 18.09.2008.

6. Heard both sides and perused the materials on record.

7. It is seen that the petitioner with a view to purchase or take over a sick unit from Kamala Ganapathy Steel Mills and TIIC approached the first respondent and deposited a sum of



Rs.20,00,000/- as non-alien deposit. However, the attempt of the petitioner did not fructify and the members of the sick unit did not come to understanding with regard to one time settlement. Frustrated at the developments, the petitioner approached the first respondent requesting to return the amount of Rs.20,00,000/- paid by him. It is seen that the Inspector of Police, Crime, B8-VH Road Police Station, Coimbatore has written a letter to the first respondent requesting him to not to release the amount to the petitioner without the order of the Court. It is brought to the notice of this Court that a criminal case is pending wherein the petitioner has been arrayed as an accused and the Trial Magistrate has passed the prohibitory orders to the first respondent directing them not to release the sum of Rs.20,00,000/- deposited by the petitioner. On a reading of the entire order, this Court does not find any illegality or infirmity, warranting interference by this Court and the first respondent has obeyed the prohibitory orders passed by the Trial Court. After the completion of the trial, if the petitioner is acquitted, ultimately he would be entitled for appropriate relief from the trial Court. Therefore, the petitioner has to await the final outcome of the case in Crime No.1216 of 2006.

8. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

ssb Sub Assistant Registrar
To

1. The Managing Director,
Tamil Nadu Industrial Investment Corporation Ltd,
692, Anna Salai, Nandanam, Chennai-35.
2. The Inspector of Police,
B-8 V.H.Road Police Station(Crimes)
Coimbatore City,
Coimbatore.

+1 cc to M/s.C.Prakasam, Advocate, S.R.No.51106
+1 cc to M/s.K.V.Sundararajan, Advocate, S.R.No.48324
+1 cc to the Government Pleader, S.R.No.48661

W.P.No.24029 of 2008

CP(CO)
SSM(30/07/2019).