

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No. 20079 of 2011
&
W.M.P.Nos.1 & 2 of 2011

The Management of Asian Bearing Ltd.,
Berikai Road, Belathur - 635 124,
Hosur Taluk, Krishnagiri District,
Rep by its Managing Director. ...Petitioner

-vs-

The Regional PF Commissioner & Recovery Officer,
Officer of the Recovery Officer,
Employees' Provident Fund Organisation,
Sri Jayalakshmi Plaza, Swarnapuri,
Salem - 636 004. ...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, to issue writ of certiorari to call for the records connected with the order of the respondent bearing reference No.TN/SRO/SLM/17496/ Recovery/2011 dated 22.02.2011.

For petitioner : Anand Gopalan
T.S.Gopalan & Co

For Respondent : Mr.R.Thiruvavukarasu

JUDGMENT

[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

Heard Mr.V.Prakash, Senior Counsel for M/s.K.Sudalaikannu, learned counsel for the petitioner and Mr.R.Thiruvavukarasu, learned counsel for the respondent. With consent of the learned counsels on either side, the Writ Petition is taken up for disposal.

2. This Petition has been filed by the appellant/management praying for issuance of writ of certiorari challenging the

recovery notice issued by the respondent dated 22.02.2011. The workers union comprising of the workers in the appellant/management company namely The Management of Asian Bearing Ltd. The workers union had also filed a writ petition in W.P.No.7041 of 2011 praying for quashing the recovery proceedings initiated by the PF Authorities. This has been dismissed by order dated 29.06.2011, as against which the appeal was preferred by the Workers Union in W.A.No.1665 of 2011, which was dismissed as withdrawn by order dated 18.02.2019.

3. Admittedly, the PF Authorities are entitled to initiate action for recovery, in the event of default committed by the management in payment of dues recovered from the workmen as well as contributions made by the management.

4. We have perused the averments set out in the affidavit filed in support of the writ petition and we find that petitioner/management has not made out any interference with the proclamation of sale dated 22.02.2011. The contention that the appellant/management has become a sick industry and referred to the BIFR could hardly be defects. Therefore, we find that the challenge to this proclamation dated 22.02.2011 has necessarily failed. Accordingly, writ appeal is dismissed.

5. It is submitted by the learned standing counsel for the respondent/PF Authorities that the movables and immovables of the appellant/management have been attached, as we have dismissed the writ petition challenging the proclamation, it goes without saying that the attachment will continue as long as entire dues is cleared as per the demand made by the PF Authorities, as consequently the appellant/management will not be entitled to deal with the properties both movable and immovables which have been attached by the PF Authorities.

6. Accordingly, the writ petition being devoid of merits and is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Regional PF Commissioner & Recovery Officer,
Officer of the Recovery Officer,
Employees' Provident Fund Organisation,
Sri Jayalakshmi Plaza, Swarnapuri,
Salem - 636 004.

+lcc to Mr.T.S.Gopalan, Advocate Sr.14681

+lcc to Mr.R.Thirunavukarasu, Advocate Sr.14473

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