

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:21.11.2019

Coram:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition Nos.3159 and 3160 of 2018
and
W.M.P.Nos.3875 and 3876 of 2018

Sri Saravana Bhavan
Rep.by its Proprietrix,
K.Uma, W/o P.Kumar,
No.7, Pattamangala Street,
Mayiladuthurai 609 001.

.. Petitioner in
W.P.No.3159 of 2018

Magic Media Digital Printers,
Rep.by its Proprietor,
P.Kumar,
S/o Paneerselvam,
No.2, Gandhiji Road,
Kittappa Angadi,
1st Floor, Mayiladuthurai,
Nagapattinam District 609 001.

.. Petitioner in
W.P.no.3160 of 2018

/versus/

1.The Tamil Nadu Industrial Investment Corporation Ltd.,
Rep.by its General Manager,
No.692, Anna Salai,
Nandanam, Chennai 600 035.

2.Branch Manager,
The Tamil Nadu Industrial Investment Corporation Ltd.,
No.2854, NKG Apartment,
Nanjikkottai Road,
Thanjavur 613 001.

3.Branch Manager,
The Tamil Nadu Industrial Investment Corporation Ltd.,
Door No.12/1, LRJ Complex 2nd Floor,
Naduvar Keela Street,
Nagapattinam 611 001.

.. Respondents in
both WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the impugned proceedings bearing No.TIIC/NGT-FO/FU/2016-17, dated 12.01.2018, issued by the 2nd

respondent and quash the same as illegal, arbitrary and non est in law.

For Petitioners :Mr.B.Vijay
(both WPs)

For Respondents :Mr.K.Magesh for R1 to R3
(both Wps)

COMMON ORDER

These Writ Petitions have been filed praying to issue a Writ of Certiorari to call for the records of the impugned proceedings bearing No.TIIC/NGT-FO/FU/2016-17, dated 12.01.2018, issued by the 2nd respondent and quash the same as illegal, arbitrary and non est in law.

2. This Court, while hearing the matter on the earlier occasion on 24.10.2019, found that the petitioners have no merit in these writ petitions. Any how, to give an opportunity to them to settle the dues, interim order was granted on condition.

3. Pursuant to the interim order, the petitioners have not cleared the dues and also not allowing the Tamil Nadu Industrial Investment Corporation Limited (in short "TIIC") to realise the money due. Taking note of that fact and the submission made by the learned counsel appearing for the respondents, This Court has passed the following the order on 24.10.2019:

"At the time of admission, the petitioner sought for stay of the auction of the properties seized under Section 297 of the State Financial Corporation's Act, 1951 and this Court has passed an interim order of stay indicating the petitioners should settled the whole dues in both cases within reasonable time.

2.The petitioners who are husband and wife had borrowed loans from the respondent in the name of Sri Saravana Bhavan and Magic Media Digital Printers respectively. For default in payment of the loan, the properties were attached and brought to sale. A day before auction, this Court granted stay of auction on condition to deposit a sum of Rs.7.5 lakhs. The same was deposited by these petitioners on 09.02.2018. Thereafter, other petition has been taken out by the petitioners that unless and until the Printing Press is allowed to operate, they may not be in a position to generate funds to repay the loan amount. Accordingly, this

Court on 28.02.2018 directed the petitioners to pay further sum of Rs.5 lakhs within a period of four weeks and on payment the lock was opened. The order of status quo granted on 15.02.2018 was directed to continue.

3.It is now represented by the learned counsel appearing for the respondents that except a sum of Rs.12,50,000/- paid together by the petitioners for the loan due to Rs.40.79 lakhs, as on 12.01.2018 payable by Sri Saravana Bhavan Rep.by Proprietrix K.Uma and Rs.18.98 lakhs payable by P.Kumar, Proprietor of Magic Media Digital Printers, no further sum has been paid as promised by the petitioners, despite nearly lapse of 1 ½ years.

4.In such circumstances, this court is of the opinion that the petitioners after giving an undertaking to the Court that they will settle the dues within a reasonable time has not kept their promise after getting interim relief from this Court.

5.Hence, the interim order granted on 15.02.2018 shall stand automatically vacated, if the petitioner in W.P.No.3159 of 2018(Sri Saravana Bhavan rep.by its Proprietrix, K.Uma, W/o P.Kumar) fails to pay Rs.10 lakhs on or before 20.11.2019. Similarly, the petitioner in W.P.No.3160 of 2018 (Magic Media Digital Printers rep.by its Proprietor P.Kumar) has to pay Rs.5 lakhs on or before 21.11.2019.

6. Post the matter on 22.11.2019."

4.Today, when the matter is taken up for consideration, the learned counsel appearing for the petitioners requires some more time to comply the condition imposed by this Court vide, its order dated 24.10.2019.

5.This Court finds that despite giving enough breathing time to the petitioners to save the property, they have not paid the money due. As against loan of Rs.40.79 lakhs payable by Sri Saravana Bhavan Rep.by Proprietrix, K.Uma and Rs.18.98 lakhs payable by P.Kumar, Proprietor of Magic Media Digital Printers, only paltry sum of money was paid and taking advantage of the pendency of these writ petitions, they are preventing the TIIC from realising the money due. Even after showing some consideration for the petitioners granting one month time to pay the part of the amount due, they have not paid even single pie.

6.In such circumstances, this Court finds that the petitioners have no locus to sustain the writ petitions any

further and enjoy the interim order granted by this Court on 15.02.2018. Hence, both the writ petitions are liable to be dismissed.

7. Accordingly, these Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To:

1. The Tamil Nadu Industrial Investment Corporation Ltd.,
Rep. by its General Manager,
No. 692, Anna Salai,
Nandanam, Chennai 600 035.

2. Branch Manager,
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3. Branch Manager,
The Tamil Nadu Industrial Investment Corporation Ltd.,
Door No. 12/1, LRJ Complex 2nd Floor,
Naduvar Keela Street,
Nagapattinam 611 001.

+4cc to Mr. B. Vijay, Advocate, S.R.No. 97626
+1cc to Mr. K. Magesh, Advocate, S.R.No. 96995

W.P.Nos. 3159 and 3160 of 2018

CA(CO)
GN(31/12/2019)