

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

WP.No.7779 of 2020

Dr.K.Venkatachalam

...Petitioner

Versus

1.M/s.Asset Reconstruction Company (India) Ltd.,
(ARCIL)
No.1-G, 1st Floor, Century Plaza,
560-562, Anna Salai,
Teynampet, Chennai 600 018
rep.by its Authorised Officer,

2.Mr.M.Amani Abu Ayub Ansari

3.Mrs.M.Faiza Begum

...Respondents

(R2 & R3 is impleaded vide order dated 29.09.2020
in W.M.P.No.17241 of 2020)

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the respondent, relating to the impugned E-Auction Sale Notice dated 27.2.2020 and consequential impugned E-Auction Sale held on 31.3.2020, in respect of property No.2 and all other consequential proceedings and quash all the same, as illegal and consequently direct the respondent to refund the entire Auction bid amount of Rs.1,80,00,000.00 paid by the petitioner,

in respect of property No.2 of the E-Auction Sale Notice, along with interest thereupon as per the prevailing RBI norms, with exemplary costs.

For Petitioner : Mr.S.Parthasarathy
for Mr.R.S.Pandiyaraj

For Respondents: Mr.Gupta for R1
Mr.Naveen Kumar Murthy
for Mr.Dratheesh for R2 & R3

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

By consent, the writ petition is taken up for final disposal and is disposed of by this order.

2. In the prayer, the petitioner has sought for quashment of the impugned proceedings, relating to the E-auction sale notice dated 27.02.2020 and consequential E-auction sale held on 31.03.2020, in respect of property no.2 and all other consequential proceedings and quash the same as illegal and further direction to refund the entire auction bid amount of Rs.1,80,00,000/- to the petitioner in terms of RBI norms with exemplary costs and the matter was listed for admission.

3.On 28.05.2020, this Court had entertained the Writ Petition and granted interim orders forbearing the respondents from going for further auction and thereafter, extended the interim order on various conditions. When the matter was listed on 04.11.2020, the learned standing counsel appearing for the 1st respondent, on instructions, would submit that a decision has been taken to cancel the auction sale with consequential refund of the sale consideration paid by the petitioner / auction purchaser and sought time to get instructions in this regard and accordingly, the matter is listed today.

4.The 1st respondent has filed the counter affidavit dated 09.11.2020 vide USR No.20979 of 2020 dated 09.11.2020 and it is relevant to extract paragraph no.4 of the same:

''4. Without prejudice to the above and without going into the merits of the allegations made in the affidavit, I submit that the respondent is prepared to cancel the e-auction sale held on 31.03.2020 pursuant to the Sale Notice dated 27.02.2020 and is willing to refund the sum of Rs.1,80,00,000/- paid by the petitioner in respect of property no.2 without interest and costs. This

is without prejudice to the right of the respondent to bring all or any of the properties for sale by way of proceedings under the SARFAESI Act, 2002.'

5.The learned counsel appearing for the petitioner would submit that the petitioner has participated in the auction in respect of third item of suit property also and he also in turn, approached the 1st respondent for refund of the sale consideration also in the form of representation and it may be directed to be considered by them.

6.This Court heard the submissions of Mr.Gupta, learned counsel appearing for the 1st respondent and Mr.Naveen Kumar Murthy, learned counsel for respondents 2 and 3 and also perused the materials placed before it.

7.This Court taking into consideration the scope of the prayer sought for in the Writ Petition as well as paragraph no.4 of the counter affidavit filed by the 1st respondent, directs the 1st respondent to refund the sum of Rs.1.80 crores to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

8.At this juncture, the learned counsel appearing for the petitioner would submit that since the sale consideration has been fully deposited and the petitioner is entitled to the reasonable rate of interest ever since March 2020 and that apart, in respect of the property number also, he is entitled to make a similar claim in the form of representation and that the 1st respondent may be directed to consider and dispose of at an early date and on the said submission, this Court heard the submission of the learned counsel appearing for the 1st respondent who would submit that in the event of representation being submitted, the same would be considered and can give a disposal at an early date .

9.This Court heard the submissions of the learned counsel appearing for the respondents 2 and 3 also.

10.It is also open to the petitioner to submit a detailed representation as to the claim of interest in respect of the refund of the said amount as well as in respect of the property no.3 to the 1st respondent Bank within a period of two weeks from the date of receipt of a copy of this order and the 1st respondent upon receipt of the same, shall consider the same on merits and in accordance with law and give a disposal within a further period of two weeks thereafter and communicate the decision taken, to the petitioner.

11.In the light of the above, nothing remains for further adjudication in this Writ Petition and therefore, the Writ Petition is closed, subject to above observation. No costs.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

sk

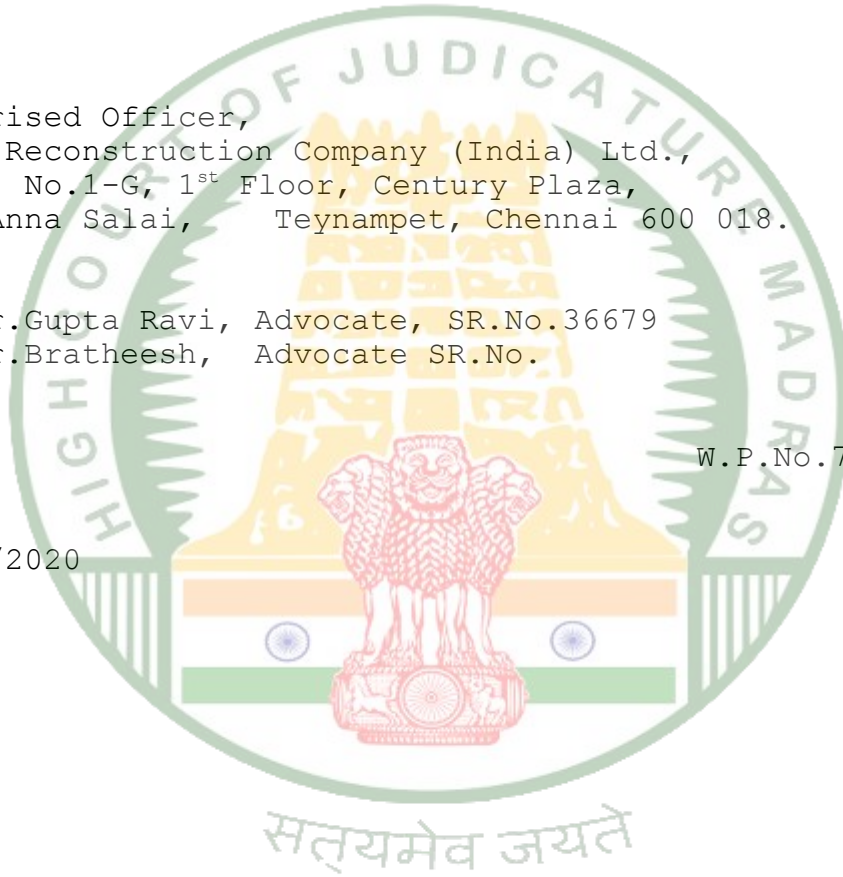
To

The Authorised Officer,
M/s.Asset Reconstruction Company (India) Ltd.,
(ARCIL), No.1-G, 1st Floor, Century Plaza,
560-562, Anna Salai, Teynampet, Chennai 600 018.

+1cc to Mr.Gupta Ravi, Advocate, SR.No.36679
+1cc to Mr.Bratheesh, Advocate SR.No.

W.P.No.7779 of 2020

RLD(CO)
KKV/14/12/2020



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