

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2020

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.P.No.14453 of 2020
and
W.M.P.No.17941 of 2020

M/s.PSG Coir Products,
Represented by its Proprietor P.Devaraj,
1/22, Mahalakshmi Nagar,
T.Kottampatti,
Pollachi - 642 002. Petitioner

Vs.

1. The Authorised Officer,
J.M.Financial Asset Reconstruction Company Ltd.,
No.40/1A, 4th Floor, Basappa Complex,
Lavella Road, Bangalore - 560 001.
2. The General Manager,
Andhra Bank,
Coimbatore Main Branch,
No.17, Mill Road, Coimbatore - 640 001.
3. M/s.VTX Industries Ltd. (in Liquidation)
Through Official Liquidator,
Office of the Official Liquidator,
Corporate Bhavan, 2nd Floor,
No.29, Rajaji Salai, Chennai - 600 001
Also at No.10/400, Palaghat Road,
Guniamuthur, Coimbatore.
4. M/s.Feshraj Enterprises Pvt. Ltd.,
Palaghat Road,
Guniamuthur, Coimbatore.
5. M/s.Lakshmi Apparels and Wovens Ltd., (in Liquidation)
Through M.Suresh Kumar, FCA,
M/s.STT & Co.,
Chartered Accountants,
No.27/9, Pankaja Mill Road,
Puliankulam, Coimbatore - 640 045.

6.Ramasamy Krishnamoorthy

7. M/s.SubaGanesa Spintex Limited Liability Partnership,
Represented by its First Partner P.K.Ganeshwar,
No.21 A2, Pollachi Road,
Palladam - 641 664. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent to conduct a fresh auction with respect to the Property measuring about 15 Acres and 75 cents in G.S. No.88/2, 92/2 and 94/4 in Puliampatti Village, Pollachi, Coimbatore and the machinery, plant and equipment at Plot No.1 of the said property and permit the petitioner to participate in the same.

For Petitioner : Mr.S.Silambannan
Senior Counsel
assisted by Mr.T.Gowthaman

For R7 : Mr.C.Balaji Thiyagarajan

O R D E R

(Order of the Court was made by M.SATHYANARAYANAN, J.)

The petitioner, in the affidavit filed in support of this writ petition, among other things, states that he is into the business of coir manufacture and sale of the products and according to him, the property which belonged to the 3rd respondent measuring an extent of 15 acres and 75 cents in G.S.No.88/2, 92/2 and 94/4, Puliampatti Village, Pollachi, Coimbatore, had been brought for auction by the 1st respondent, which is an asset reconstruction company, under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act, 2002"). The petitioner would state that he was very keen to participate in the auction and sent an e-mail to the 1st respondent on 01.07.2020 evincing great interest to purchase the said property and in response to the same, the 1st respondent sent a reply stating that the said property was not for sale. However, on the previous day, i.e. on 30.06.2020, the 1st respondent has given a proper notification regarding the sale of the said property. The petitioner, being aware of the said fact, gave an offer of Rs.22.75 Crores on 30.07.2020 as auction bid and also offered to make the Earnest Money Deposit by way of Demand Draft, etc.

2.It is the specific case of the petitioner that, despite making a higher auction bid of Rs.22.75 Crores, the auction sale has knocked down in favour of the 6th respondent for a sum of Rs.22.5 Crores. The 7th respondent herein filed a writ petition in W.P.No.10098 of 2020 against the respondents herein praying for issuance of a writ of mandamus directing the 1st respondent to permit the petitioner therein/7th respondent to participate in the public auction to be conducted on 30.07.2020 by private treaty in respect of the properties to an extent of 15 acres and 75 cents in G.S.No.88/2, 92/2 and 94/4 in Puliampatti Village, Pollachi, Coimbatore, as well as the plant and machinery at Plot No.1 in the said property, and the writ petition came to be disposed of by this Court on 14.08.2020 by taking note of the submission made by the learned counsel for the 1st respondent therein that there will have to be a bid between the petitioner therein and the one who offered a sum of Rs.22.5 Crores and the highest bidder will have to be declared as successful bidder and on payment of the remaining amount by the successful bidder, the rest of the formalities will take place, and while disposing of the writ petition, this Court has also made an observation that it is open to the contesting respondent to confirm the offer made by the existing bidder for a sum of Rs.22.5 Crores.

3.The primordial submission made by the learned Senior Counsel appearing for the petitioner is that, despite the 1st respondent being aware of the higher bid amount offered by the petitioner for a sum of Rs.22.75 Crores, the same has not been brought to the knowledge of this Court while disposing of the writ petition in W.P.No.10098 of 2020 filed by the 7th respondent herein and the learned counsel has also drawn the attention of this Court to the e-mail dated 24.09.2020 submitted in this regard.

4.The 1st respondent would submit that, since the auction sale proceedings have been concluded, the offer of the petitioner would not be considered.

5.The learned counsel appearing for the 7th respondent would submit that, in pursuance of the auction sale, sale certificate has also been issued and actual physical possession of the assets has also been handed over in favour of the 7th respondent on 01.10.2020 and in the light of the said development, nothing remains for further adjudication in this writ petition.

6.This Court has carefully considered the rival submissions and also perused the materials placed.

7.In the light of the said development, especially the execution of the sale certificate in favour of the 7th respondent and the handing-over of the actual physical possession in favour of the 7th respondent on 01.10.2020, this Court is not in a position to pass a positive order in favour of the petitioner. However, the petitioner, if so advised, is always at liberty to work out their remedy in accordance with law before the competent forum.

This writ petition is dismissed subject to the above observations. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

mkn
To

The General Manager,
Andhra Bank,
Coimbatore Main Branch,
No.17, Mill Road,
Coimbatore - 640 001.

+1 CC to Mr.A. Thiyagarajan, Advocate sr 35279.
+1 CC to Mr.T.Gowthaman, Advocate sr 35285(27/11/2020)

W.P.No.14453 of 2020

BS (CO)
SP(23/11/2020)

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