



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.4819 of 2020

WEB COPY

Thangarajan

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Industrial Investment Corporation,
Anna Salai, Nandhanam,
Chennai - 600 035.

2.The Branch Manager,
Tamil Nadu Industrial Investment Corporation,
37, Cape Road,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 and 2 more particularly the first respondent to consider the representation of the petitioner dated 04.12.2018 in the light of the order of this Court as made in W.A.(MD) No.1169 of 2014 dated 28.08.2018.

For Petitioner : Mr.S.Palani Velayutham

O R D E R

The petitioner has been approaching this Court for the second time now. Originally, he had filed a Writ Petition in W.P.No.14878 of 2010, questioning the auction cum sale notice, dated 05.03.2010. As against the order passed in the said Writ Petition dated 01.09.2014, the petitioner had filed a Writ Appeal in W.A.(MD) No.1169 of 2014. The said Writ Appeal came up for consideration on 28.08.2019. The relevant portion of the order of the Division Bench of this Court in the Writ Appeal is extracted below for better appreciation:-

"10. The learned Counsel appearing for the appellant also placed his reliance on a judgment of this Court reported in 2011 (6) CTC 858 (Sri Anbalayam Textiles Private Limited Vs. The Chairman cum Managing Director, Tamil Nadu Industrial Investment Corporation Ltd., wherein a Divisional Bench of this Court had considered the above aspects in detail which is prior to the



framing of guidelines by the Hon'ble Supreme Court in Kerala Financial Corporation's Case (supra). Even by applying the said ratio laid down in the judgment stated supra, the act of the corporation in bringing the property for sale is in utter violation of the basic rules and nullifies the sale and it is liable to be set aside.

10(a) Even assuming that there were several attempts made by the respondents to bring the property to sale earlier, the Corporation ought to have ensured that the property was sold for the appropriate price. There is a legal obligation on the part of the Corporation to ensure maximum sale price for the property. Though lower than the same and the respondent has not offered any satisfactory explanation for it. If the value is fixed prior to auction, the auction has to commence from the said amount, taking it as a reserve price. As discussed earlier, the appellant was not even given notice or opportunity when the price was negotiated with the successful bidder. The auction purchaser also is obliged to deposit the sale consideration within time and cannot shirk his duty by stating that there were no guidelines prescribed by the Corporation. The failure of the same also renders the sale a nullity.

10(b) The third respondent is a stranger / auction purchaser and he neither derives title from the appellant nor from the Corporation. The sale is not through Court-auction but from the Corporation. Hence, he should be aware of the defeasibility of the title of the Corporation. Therefore, the doctrine of bonafide purchaser cannot be extended to him. As the sale is set aside, the interest of the third respondent has to be protected. The respondent Corporation to pay the sale amount received from the third respondent to him and take possession of the property. The Corporation is directed to auction the property following the guidelines and procedure laid down by the Hon'ble Supreme Court in Kerala Financial Corporation Vs. Vincent Paul 2011(6) CTC 554 (SC) after obtaining a fresh valuation certificate and fixing a reserve price.

11. With the above observations, the Writ

<https://hcservices.ecourts.gov.in/> is disposed of. No costs. Consequently,



M.P.(MD)No.1 of 2014 is closed."

2.To the extent, the records are available there is no indication that the Writ Appeal was taken up further before the Hon'ble Supreme Court. Thereafter, the petitioner has given a representation, dated 04.12.2018. The present Writ Petition has been filed since the respondent has not passed any orders on the said representation.

3. In view of these facts, a direction is issued to the respondents namely, the Managing Director, Tamil Nadu Industrial Investment Corporation, Chennai and the Branch Manager, Tamil Nadu Industrial Investment Corporation, Nagercoil, Kanyakumari District, to issue notice to the petitioner and thereafter hear the petitioner, examine any documents submitted by the petitioner, examine the orders passed by this Court in W.A.(MD)No.1169 of 2014 and after that pass orders, on or before 03.04.2020.

4.With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Managing Director,
Tamil Nadu Industrial Investment Corporation,
Anna Salai, Nandhanam,
Chennai - 600 035.

2.The Branch Manager,
Tamil Nadu Industrial Investment Corporation,
37, Cape Road,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.S.PALANIVELAYUTHAM, Advocate (SR-10424[F] dated 06/03/2020)

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