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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.12202 of 2012
and M.P.Nos.1,2 of 2012

M/s Tamilnadu Mercantile Bank Ltd.,
rep by its Chief Manager
T.Nagar Branch
No.25, Venkatnarayana Road
T.Nagar, Chennai-600 017

... Petitioner

Vs

1. The Principal Secretary to Government
Revenue (Ni.Si.2(2) Department,
Fort St. George,
Chennai 600 009.
2. The Commissioner of Land Reforms
Chepauk, Chennai 600 005.
3. The Director
Land Reforms,
Chepauk, Chennai 600 005.
4. The Joint Commissioner
Land Reforms,
Tirunelveli.
5. The Assistant Commissioner,
Land Reforms,
Tirunelveli.
6. The Recovery Officer
Debt Recovery Tribunal-2,
No.2, 4th Floor, Spencer Towers,
770-A, Anna Salai,
Chennai 600 002.
7. M/s.Moolchand Exports Ltd.,
151/1 Poonamallee High Road,
Ramavaram, Chennai 600 089.



8. R.Pradeep Kothari

9. M/s Official Liquidator,
High Court of Madras,
as the Liquidator of M/s. Moolchand Exports Ltd.
(In Liquidation), Corporate Bhavan,
2nd Floor, First line beach road,
Chennai 600 001.

... Respondents

(R8 is impleaded as per order dated 04.03.2020 made in W.M.P. No.29036 of 2019 in W.P. No.12202 of 2012 and R9 is impleaded as per order dated 04.03.2020 made in W.M.P. No.32914 of 2019 in W.P. No.12202 of 2012 by TSSJ)

PRAYER:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari to call for the records relating to the impugned proceedings of the 1st respondent in G.O.Ms.No.682 Revenue (Ni.Si. 2(2)) Department dated 21.12.2010, quash the same.

For Petitioner : M/s. V. Chandrasekaran

For Respondents : Mr. Gokul Krishnan
R1 to R5 Government Advocate

For Respondent 8 : Mr.Varun Srinivasan
for M/s.NVS and Associates

For Respondent 9 : Mr.S.R.Sundar

(R7 Dismissed vide Court order dated 15.02.2014)

O R D E R

This writ petition is filed to issue a Writ of Certiorari to call for the records relating to the impugned proceedings of the 1st respondent in G.O.Ms.No.682 Revenue (Ni.Si. 2(2)) Department dated 21.12.2010, quash the same.

2. The case of the petitioner is that the property to an extent of 152.43 acres situated in Chinnakovilankulam Village and 381.59 acres in Kurukkalpatti Village in Sankarankoil Taluk, Tirunelveli District was mortgaged with the petitioner's bank on 27.06.1996 by the 7th respondent for various facilities availed by them totaling to the tune of Rs.12,00,00,000/- (Rupees Twelve Crores only). The loan account became irregular and declared as Non Performing Asset (NPA). Therefore, the petitioner filed a



petition before the Debt Recovery Tribunal-2, Chennai in O.A.No.109 of 2007 for recovery of the loan amount with future interest. The mortgage was affirmed and final order was passed on 30.10.2009 with a direction to the Recovery Officer to issue Recovery Certificate and proceed further to enforce the mortgage. Accordingly, the Debt Recovery Certificate was issued in D.R.C.No.2 of 2010 dated 07.01.2010.

3. The subject property was brought for auction and on the auction date a notice from the 4th respondent dated 03.08.2010 was received by the 6th respondent stating that the borrower company had applied for permission under Section 37-A of the Tamil Nadu Land Reforms Act to exempt an extent of 1552.19 acres from the Ceiling Limit and the same was under the process of rejection and the orders of the Government was awaited.

4. The declaration under Section 20(1) of the Act to transfer the land to the Government, which was kept pending in view of the pendency of the application filed under Section 37-A of the Act. Therefore, the 4th respondent requested the 6th respondent to withdraw the proposal to auction the lands, already the subject property was vested in the Government retrospectively i.e., from the date of purchase of the land by the 7th respondent herein.

5. Therefore, the petitioner made objections and the 1st respondent without considering the objections effectively and passed the impugned order for the reason that the properties were brought for sale. The first respondent also directed the second respondent to proceed further under Section 20(1) of the Tamil Nadu Land Reforms Act. It is also seen that the impugned order was passed after 15 years from the date of application filed under Section 37-A of the Tamil Nadu Land Reforms Act.

6. That apart, the first respondent did not even whisper about the objections raised by the petitioner and without conducting any inquiry and passed the impugned order. Therefore, it is clear violations of principles of natural justice and the impugned order is liable to be set aside on the said ground.

7. In view of the above, the impugned proceedings of the 1st respondent in G.O.Ms.No.682 Revenue (Ni.Si.2(2)) Department dated 21.12.2010 is set aside. The petition filed by the 7th respondent under Section 37-A of the Tamil Nadu Land Reforms Act is hereby remitted back to the first respondent for fresh consideration, the first respondent is directed to issue notice to the petitioner as well as the respondents 7 to 9 herein and after giving them opportunity of hearing and pass orders on merits in accordance with law.



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8. Accordingly, this writ petition is allowed. No order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rna/mka

To

- 1.The Principal Secretary to Government
Revenue (Ni.Si.2(2) Department,
Fort St. George, Chennai 600 009.
- 2.The Commissioner of Land Reforms
Chepauk, Chennai 600 005.
- 3.The Director, Land Reforms,
Chepauk, Chennai 600 005.
- 4.The Joint Commissioner
Land Reforms, Tirunelveli.
- 5.The Assistant Commissioner,
Land Reforms, Tirunelveli.
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(In Liquidation), Corporate Bhavan,
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+1cc to the Government Pleader Sr No.43640

W.P.No.12202 of 2012
and M.P.Nos.1,2 of 2012

PA (CO)
PR (23/09/2021)