

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.11057 of 2020

and

WMP Nos.13456, 13453, 13450 of 2020

M/s.SAS Cityscapes Pvt. Ltd.

Rep. By its Managing Director,

Meenakshi Sundaram,

No.134, A-8, First floor, Lakeview Road,

West Mambalam, Chennai-33.

...Petitioner

Vs

1. The Securities and Exchange Board  
of India (SEBI),

Rep. By its Recovery Officer & Deputy General Manager,

Overseas Towers,

7<sup>th</sup> Floor,

756-L, Anna Salai,

Chennai - 600 002.

2. M/s.Asurre Agrowtech Ltd.,

Represented by its Managing Director

S.Thangappalam,

1/90, Pillaiyar Koil Street, Masinayakanpatti(PO),

Salem-103.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari to call for the records of the proceedings in Impugned Show Cause Notice in "Recovery proceedings initiated against Asurre Agrowtech Limited [PAN-AAGCA7035E], Shri Sengen Thangappalam [PAN - AFUPT3687B], Shri Shanmugam Rajendran [PAN-ALAPR1414Q], Shri P.Saravanan [PAN BYVPS3370R], Shri R.Devadoss [PAN-AUCPD0859J] and Shri V. Venkataramanujam [PAN-AABPV3976F] ["defaulters"] under section 28A of the SEBI Act, dated 04.10.2019 and the consequential Impugned 'Notice of Sale for E-Auction of immovable properties of Asurre Agrowtech Limited & Others' dated 30.07.2020 issued by the 1<sup>st</sup> respondent scheduling E-auction on 30.08.2020 and quash the same as arbitrary and illegal and devoid of merits in so far as the properties comprised in Survey No.1/7D in No.59, Kottachedu Village, Maramangalam Village Panchayat, Yercaud Talu, Sub-Registrar office of Yercaud already purchased by the Petitioner Company and Sale Agreements

registered thereof, and all acts done in furtherance thereof and /or pass such other or further suitable order.

|                |     |                                                                             |
|----------------|-----|-----------------------------------------------------------------------------|
| For petitioner | ... | Ms.R.Prem Raja Kumari                                                       |
| For respondent | ... | Mr.C.Prasanna Venkatesh &<br>Associates for R1<br>R2-Served - No appearance |

#### ORDER

By consent of both the parties, this writ petition is taken up for final disposal at the time of admission itself.

2. This writ petition has been filed challenging the show cause notice dated 04.10.2019 issued under Section 28-A of the SEBI Act against the petitioner on the ground that the petitioner is a bonafide purchaser for valuable consideration and therefore, the 1<sup>st</sup> respondent does not have any authority under law to attach their property on account of the default committed by the second respondent.

3. Heard Ms.R.Prem Raja Kumari, learned counsel for the petitioner and Mr.C.Prasanna Venkatesh, learned counsel for the first respondent. Despite service of notice on the 2<sup>nd</sup> respondent and their name having been printed in the cause list, there is no representation on the side of the 2<sup>nd</sup> respondent.

4. It is the case of the petitioner that they are the bonafide purchaser for valuable consideration having purchased the property from the 2<sup>nd</sup> respondent, even before legal action was initiated by the 1<sup>st</sup> respondent against the 2<sup>nd</sup> respondent under the provisions of the SEBI Act. It is also the case of the petitioner that without authority under law, the impugned show cause notice has been issued to the petitioner as to why recovery proceedings with regard to the default committed by the 2<sup>nd</sup> respondent should not be initiated against the property purchased by the petitioner from the 2<sup>nd</sup> respondent. According to the petitioner they are having the registered sale deed in their name and agreements have also been registered in their name to prove their title. In such circumstances, they have challenged the impugned show cause notice issued under Section 28-A of the SEBI Act.

5. Admittedly, a reply has been sent to the impugned show cause notice by the petitioner on 18.11.2019. However, no final order has been passed till date by the 1<sup>st</sup> respondent. It is also the contention of the petitioner that all the documentary evidence in support of their title over the property and to show that they are the bonafide purchaser for valuable consideration has already been placed by them before the 1<sup>st</sup> respondent. It is also the contention of the petitioner that they have also

participated in several hearings before the 1<sup>st</sup> respondent with regard to the impugned show cause notice. However, the learned counsel for the 1<sup>st</sup> respondent on instructions, would submit that the 1<sup>st</sup> respondent needs sufficient time to scrutinise all the documents and pass final orders. He has also given an undertaking on instructions, that only the property which belongs to the 2<sup>nd</sup> respondent will be attached by the 1<sup>st</sup> respondent and bonafide purchasers from the 2<sup>nd</sup> respondent will not be disturbed.

6. It is settled law that a show cause notice can be challenged under Article 226 of the Constitution of India only in case, where the said show cause notice has been issued without authority under law and without jurisdiction. In the case on hand, even before passing of final orders, the petitioner has approached this Court challenging the show cause notice issued under Section 28-A of the SEBI Act. Therefore, this Court is of the considered view that the petitioner has approached this Court prematurely. Infact the petitioner has also sent a reply to the show cause notice and it is also an admitted fact as seen from the affidavit filed in support of this writ petition that they have also attended several hearings before the 1<sup>st</sup> respondent with regard to the impugned show cause. This being the case, the only limited relief that can be granted by this Court is to issue a direction to the 1st respondent to pass final orders in the impugned show cause notice after giving due consideration to the reply sent by the petitioner as well as all the documentary evidence placed by the petitioner. No prejudice will be caused to the respondents, if such an order is passed by this Court. A bonafide purchaser of the property should not be affected due to the default committed by the 2<sup>nd</sup> respondent in this writ petition. Whether the petitioner is the bonafide purchaser or not will have to be adjudicated by the first respondent while passing the final order.

7. For the foregoing reasons, this Court directs the 1<sup>st</sup> respondent to pass final orders, pursuant to the impugned show cause notice dated 04.10.2019 issued under Section 28-A of SEBI Act after affording sufficient opportunity to the petitioner to place all documentary evidence in support of their case including granting them the right of personal hearing on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order. Till final orders are passed, status quo in respect of the petitioner's property measuring an extent of 4 acres and 60 cents comprised Survey No.1/7D (sub divided) as Survey No.1/7D1) comprised in No.59, Kottachedu Village, Maramangalam Village Panchayat, Yercaud Taluk, shall be maintained.

With the aforesaid direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

vsi2

Sub Assistant Registrar

To

The Recovery Officer & Deputy General Manager,  
Securities and Exchange Board  
of India (SEBI),  
Overseas Towers,  
7<sup>th</sup> Floor,  
756-L, Anna Salai,  
Chennai - 600 002.

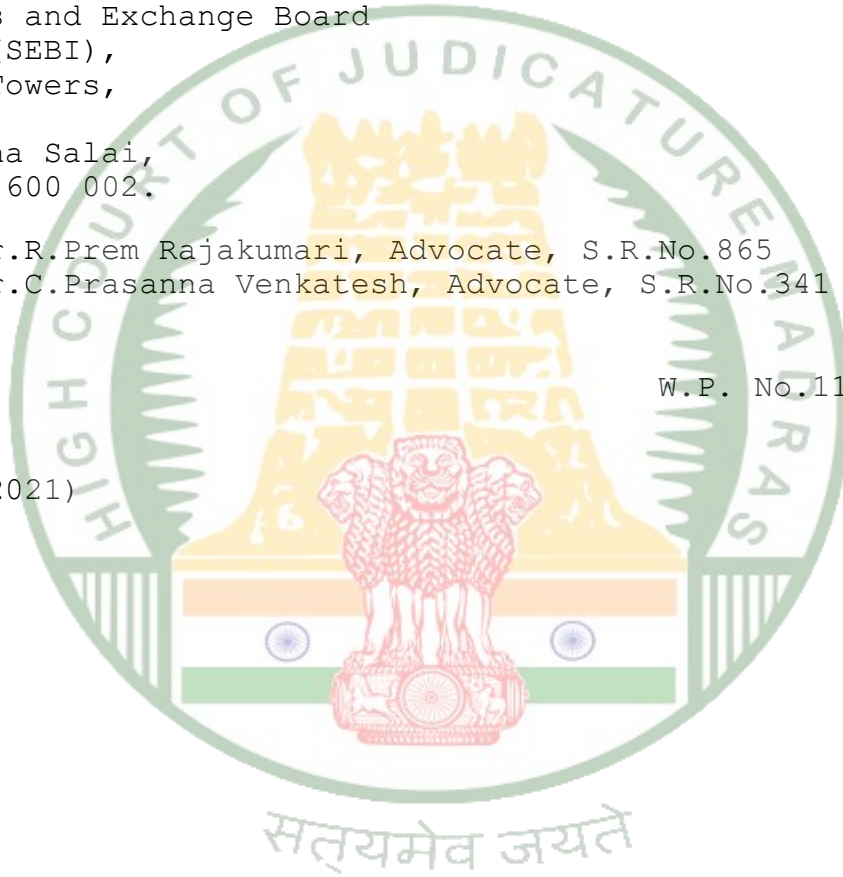
+lcc to Mr.R.Prem Rajakumari, Advocate, S.R.No.865

+lcc to Mr.C.Prasanna Venkatesh, Advocate, S.R.No.341

W.P. No.11057 of 2020

pm(CO)

rv(01/02/2021)



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