



WEB COPY

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

Judgment Reserved on : 26.08.2021

Judgment Delivered on : 22.09.2021

CORAM :

THE HON'BLE MR.JUSTICE T.RAJA

and

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

W.A.No.792 of 2016

The Vellore District Leather and Shoe Thozhilar Sangam,
12/C, Dr.Ambedkar Nagar,
M.C.Road, Ambur,
Vellore District rep by its
Secretary S.Elangovan ... Appellant

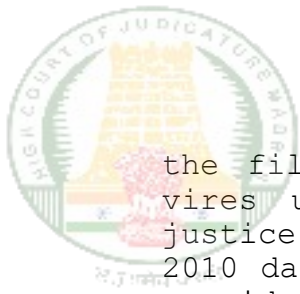
versus

- 1.C.Madhanraj
- 2.The District Collector,
Vellore.
- 3.The Tahsildar,
Ambur, Vellore District.
- 4.The Village Administrative Officer,
Ambur, Vellore District.
- 5.The Assistant Manager,
City Union Bank,
International Banking Division,
706, Anna Salai, Chennai. ... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent,
prayed to set aside the order of this Court dated 25.04.2016
made in W.P. No.10048 of 2011 passed by the learned Single Judge.

Prayer in W.P. No.10048 of 2011:

Petition filed under Article 226 of the Constitution of
India praying for the issue of a Writ of Certiorarified Mandamus
calling for the records in Na.Ka.Cl.366/2008 dated 06.04.2011 on



the file of the Tahsildar, Ambur and quash the same as ultra vires unconstitutional and against the principles of natural justice and contrary to the directions issued in W.A.No.1268 of 2010 dated 07.10.2010 and consequently direct the respondents to consider the representation of the petitioner dated 12.04.2011 and pass orders thereon within a stipulated time so as to not to take any further course of action on the strength of the impugned order.

For Appellant	:	Mr.Balan Haridoss for Mr.T.Dharani
For Respondents	:	
For R1	:	Mr.R.Shanmugam for M/s.Shanmugam Association
For R2 to R4	:	Mr.V.Manoharan Government Advocate
For R5	:	Mr.T.K.Ramkumar for M/s.R.S.Varadharajan

JUDGMENT

T.V.THAMILSELVI, J.

The appellant is the 4th respondent in W.P.No.10048 of 2011, filed by the 1st respondent herein challenging the impugned order dated 06.04.2011 issued by the Tahsildar, Ambur and to quash the same as ultra-vires and unconstitutional. Since the same was allowed in favour of the Writ Petitioner / R1, aggrieved by the impugned order the present Appeal has been brought before us.

2.The facts reveal that the appellant herein has represented the workman employed in M/s.Tejoomals' Industries Private Limited, and there were about 154 employees in the industry. Due to poor maintenance, the tannery was closed on 17.07.1997 without obtaining prior permission from the Government under Section 25(O) of the Industrial Dispute Act, 1947. Hence, the employees filed their claim petitions before the Labour Court, Vellore in C.P.Nos.53,54,57,90 & 91 of 2006 under Section 25(O) (6) of Industrial Disputes Act, and the same were allowed on 21.11.2006, ordering to pay the amount to the employees.

3.In the meanwhile, the said M/s.Tejoomals' Industries, which availed loan from the City Union Bank by hypothecating both its movable and immovable assets, having failed in repayment of the loan, suffered SARFAESI proceedings and the Bank initiated the proceedings before the Debt Recovery Tribunal. The loan borrowed by the said M/s.Tejoomals' Industries Private Limited, was secured by both movable and immovable assets of the industry and the same was purchased by



the 1st respondent herein through public auction, held on 15.06.2006.

4. Further, the appellant contended that, in order to execute the order passed by the Labour Court, Vellore, the workers made an application under Section 33 C (1) of the Industrial Disputes Act to the appropriate Government, based upon which G.O.(D). No.829, Labour and Employment (B2) Department, dated 30.11.2007, was issued in respect of the award claim of Rs.2,48,82,915/- and the District Collector was directed to recover the same as arrears of land Revenue and pay over to the workers. But the District Collector was unable to implement the said G.O. Hence, the appellant filed a W.P.No.16472 of 2008, to direct the Collector to take appropriate steps to collect the amount as per the said G.O.(D).No.829, dated 30.11.2007, from both M/s.Tejoomals' Industries Private Limited, and the subsequent purchaser Mr.Madhanraj.

5. On hearing both sides, this Court passed an order on 09.04.2010 in W.P.No.16472 of 2008, directing the Collector to recover the amount from the parties. Against the said order, the 1st respondent herein has preferred W.A.No.1268 of 2010 and the same was dismissed on 07.10.2010, by the Hon'ble Division Bench of this Court with the following observations.

"4. Admittedly, the loan taken by the appellant from the Bank was secured by both movable and immovable assets of the industry. Hence, when the industry was sold the appellant purchased the industry with all its liabilities. In the aforesaid premises, the direction issued to the District Collector to recover the amount needs no interference by this Court."

6. In W.A.No.1268 of 2010, liberty was also granted to the 1st respondent / purchaser to proceed against the Bank or against the erstwhile owner of the industry to recover the amount in accordance with law. While disposing of the Writ appeal, a direction was also given to the District Collector / 2nd respondent to recover the amount and also given liberty to the 1st respondent / purchaser to put-forth his contention before the Collector. Thereafter District Collector issued notices to all parties including this Writ Petitioner / 1st respondent herein / purchaser, and after hearing the objections raised by this purchaser rejected the same and based on the said direction, the Revenue Authority issued demand notice on 06.04.2011 to M/s.Tejmal Industries and its proprietor / purchaser.

7. The said notice has challenged by the said purchaser in this W.P.No.10048 of 2011 while filing the said Writ Petition,

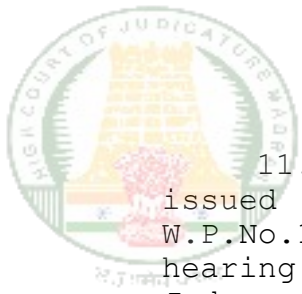


both the workmen and the Bank were not impleaded, hence they got impleaded therein as 4th and 5th respondents and along with this Writ Petition, two other writ petitions were filed challenging the recovery proceedings and all the three petitions were allowed in favour of the purchaser. Aggrieved by the said order, the Labour Union has preferred this appeal.

8. Learned counsel for the appellant/ Sangam submitted that the 1st respondent / purchaser is bound to settle their claims as per the order passed by the Labour Court, Vellore, since he purchased the movable and immovable assets of the industries along with its liability as ordered in W.P.No.16472 of 2008 and the same was confirmed in the Writ Appeal No.1268 of 2010 by the Hon'ble Division Bench of this Court on 07.10.2010. Based upon the direction in the said Writ Petition as well as the Writ Appeal, the District Collector issued the demand notice, in order to implement the said direction.

9. Per contra, the learned counsel for the 1st respondent/purchaser submitted that as a bona-fide purchaser, he purchased the property and at the time of the auction, he was not informed about the labourers' claim and he purchased only land and machinery, hence he is not bound to settle the claim. Rather the appellant ought to have approached the original erstwhile proprietor.

10. Facts of the case would show that the appellant is the auction purchaser, who purchased the immovable property belonging to the debtor company on 15.6.2006 in Court auction. The respondent-City Union Bank Ltd., Kumbakonam filed an application against the defaulting company, namely, Tejoomals Industries Limited for recovery of money and also obtained a certificate of recovery in DRC No.231 of 2003 from the Debts Recovery Tribunal-I, Chennai. On receipt of the certificate of recovery, the Debts Recovery Tribunal-I brought the property in public auction. As the appellant was unable to get any response from the Recovery Officer as to whether there are any statutory dues, he paid the balance of the sale consideration, after which a certificate was also issued by the Recovery Officer on 27.7.2006. Later on, the workmen of M/s Tejoomals Industries Limited filed applications under Section 33-C(2) of the Industrial Disputes Act, 1947 before the Labour Court, Vellore seeking computation of the monetary value to be received from the debtor company and the Labour Court also allowed the claim petitions on 21.11.2006, based on which the Government issued G.O.(D) No.829, Labour and Employment Department dated 30.11.2007 directing the District Collector, Vellore to recover the dues payable to the workmen, as per the order passed by the Labour Court, Vellore.



11. Pursuant to the said order, the Tahsildar. Ambur also issued a demand notice dated 6.4.2011. Challenging the same, W.P.No.10048 of 2011 was filed by the auction purchaser. After hearing learned counsel for the parties, the learned single Judge, finding that with regard to one property on which there could be several charges and attachments, could be brought to sale only once and if at all people claim priority of payment or rateable distribution, it could be only on the sale proceeds and not on the property after a pucca Court auction sale, held that what was available in the form of land and building has now got converted into liquid cash, and as such allowed the writ petition quashing the notice of demand issued by the Tahsildar, Ambur. Since Mr.C.Madhan Raj, the auction purchaser had purchased item nos.1 & 2 of the properties of M/s Tejoomals Industries Limited as listed in the sale certificate dated 20.6.2006 for a sum of Rs.76,00,000/- and the said land and building have also been now converted into liquid cash, as held by the learned single Judge, the said amount has to be proportionately apportioned by the revenue authorities leaving the auction purchaser, as he cannot be mulcted with more liability than the value of the property purchased in Court auction. Moreover, the order filed before the learned Single Judge, shows that the amount due to City Union Bank Limited and to the workmen of Tejoomals Industries Limited is Rs.6,32,00,437/- and Rs.2,48,82,915/- respectively. It is also stated that after the sale, the said sum of Rs.76,00,000/- has been handed over by the Debts Recovery Officer, DRT-I, Chennai to City Union Bank Limited in part satisfaction of its dues. Secondly, the affidavit filed by the Bank also shows that the Bank has verified with the Registrar of Companies, Mumbai, the Official Liquidator, Mumbai and from the website of the Ministry of Home Affairs and has found that the said Company M/s Tejoomals Industries Limited bearing Company Registration No.65632 is not under winding up and no application for winding up is pending and that the City Union Bank Limited got first priority for settlement of its dues as a secured creditor, thereafter, the appellant claim would follow.

12. In the light of the above, leaving it open to the appellant Union to work out their remedy in the manner known to law, the writ appeal stands dismissed. However, there is no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar



rri

To

1.The District Collector,
Vellore.

2.The Tahsildar,
Ambur, Vellore District.

3.The Village Administrative Officer,
Ambur, Vellore District.

4.The Assistant Manager,
City Union Bank,
International Banking Division,
706, Anna Salai, Chennai.

+lcc to M/s.T.Dharani, Advocate Sr No.49627

+lcc to M/s.Shanmuga Associates, Advocates Sr No.48649

+lcc to the Government Pleader Sr No.49024

W.A.No.792 of 2016

SR II (CO)
PR (18/10/2021)