



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.19163 OF 2021
AND W.M.P.NO.20464 OF 2021

M/s.Sri Sivajothi Spinning Mills Pvt Ltd
Rep by its Managing Director
Mr. Karthik Vellingiri
S.F.No. 896, Suriyan Nagar
ABT Road New Extension
Tiruppur - 641604.

... Petitioner

-vs-

1 S.Muthuraju
Liquidator, In the matter of Swastik
Spinners (India) Pvt Ltd (In Liquidation),
No.3, Sundaram Brothers Layout,
Opp to All India Radio, Trichy Road
Ramanathapuram, Coimbatore 641 645.

2 M/s. Tamilnad Mercantile Bank,
Pursawalkam Branch, 80-93, Pursawalkam
High Road, Palace Regency, First Floor,
Pursawalkam, Chennai - 600 010. ... Respondents

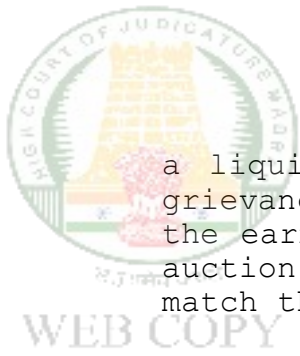
Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent with respect to the letter dated 28.05.2021 and quash the same as being ultra vires the provisions of Regulations 33 of Schedule 1 of the IBBI Regulations 2016 and consequently direct the 1st respondent to return the forfeited Earnest money deposit of Rs. 54,31,050/- (Rupees Fifty Four Lakhs Thirty One Thousand and Fifty only).

For the Petitioner : Ms.Ananda Gomathy

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner participated at an auction sale conducted by



a liquidator in seisin of the liquidation of a company. The grievance of the petitioner is that though the petitioner put in the earnest money and, ultimately, was the highest bidder at the auction, the petitioner discovered that the documents did not match the property.

2. The petitioner claims to have called upon the liquidator to annul the auction and to refund the earnest deposit since the documents did not match the relevant property. It is the forfeiture of the earnest deposit by the liquidator which is the basis of the petitioner's claim herein.

3. Matters pertaining to the liquidation of a company are governed by the Insolvency and Bankruptcy Code, 2016. There is a specialised forum, the National Company Law Tribunal, which receives all matters pertaining to the insolvency of a company and all acts done by the liquidator in course of the liquidation of a company.

4. Since there is an efficacious alternative remedy available to the petitioner, notwithstanding the petitioner's assertion that the liquidator may not have the jurisdiction to forfeit any earnest deposit, the grievance should be carried to the statutory forum. The writ petition is not entertained. It is made clear that the merits of the matter have not been gone into.

W.P.No.19163 of 2021 is disposed of by leaving the petitioner free to approach the jurisdictional NCLT in accordance with law. W.M.P.No.20464 of 2021 is closed. There will be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To

The Tamilnad Mercantile Bank,
Pursawalkam Branch, 80-93, Pursawalkam High Road,
Palace Regency, FirstFloor, Pursawalkam,
Chennai - 600 010.

W.P.No.19163 of 2021

PVS (CO)
PM/20/09/2021