



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.09.2021

CORAM:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.4470 of 2020 and

MP(MD) Nos.3793 of 2020, 3791 of 2021 & 13033 of 2021

WEB COPY

M/s.AGK Packers,
Represented by its Managing Partner,
T.Kumararaj,
Plot No.4D/2, SIPCOT Industrial Park,
Trichy Road, Pudukottai.

... Petitioner

Vs.

1.The Branch Manager,
Tamil Nadu Industrial Investment
Corporation
Pudukottai Branch,
"Meena Complex", I Floor,
T.S.No.2430/31, West Main Street,
Pudukottai-622 001.

2.The Branch Manager,
Tamil Nadu Industrial Investment
Corporation,
Thanjavur Branch,
2854/C-1, NGK Apartment,
Nanjikottai Road,
Opposite to Arul Theatre,
Thanjavur-1.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the second respondent in respect of the impugned Auction Sale Notice dated 23.01.2020, published in Thina Thanthi Tamil News Daily on 24.01.2020 for Auction Sale of the subject immovable property being Plot No.4D/2, measuring an extent of 80 cents along with building situated in SIPCOT Industrial Estate, Trichy Road, Pudukottai and quash the same.

For Petitioner :Mr.Nandakumar

For Respondents :Mr.R.Saravanan
Standing Counsel



ORDER

The prayer sought for in this Writ Petition is for a Writ of Certiorari, calling for the records of the second respondent in respect of the impugned Auction Sale Notice dated 23.01.2020, published in Thina Thanthi Tamil News Daily on 24.01.2020 for Auction Sale of the subject immovable property being Plot No.4D/2, measuring an extent of 80 cents along with building situated in SIPCOT Industrial Estate, Trichy Road, Pudukottai and quash the same.

2. It is the case of the petitioner that, the petitioner is a partnership Firm involved in manufacturing of corrugated boxes. During the course of business, in the year 1999, the petitioner firm approached the first respondent for financial assistance. Accordingly term loan for a sum of Rs.80,00,000/- (Rupees Eighty Lakhs Only) and subsidy bridge loan for a sum of Rs.19.49 Lakhs was sanctioned.

3. In this regard, since there has been over due payable to the respondent/the Tamil Nadu Industrial Investment Corporation, the property belonging to the petitioner, which had already been mortgaged to in favour of the respondent had been brought for auction sale and in this regard, auction notice was issued on 24.01.2020. Challenging the same, this Writ Petition has been filed.

4. When this Writ Petition came up hearing at the admission stage, the learned Judge of this Court has passed the following order on 05.03.2020.

"Counter to be filed by 20.03.2020.

In the meanwhile, if the petitioner is interested, he may approach the second respondent insofar as the property mentioned in the writ petition is concerned and make an effective offer which the respondent may consider in its true perspective.

Call the matter on 20.03.2020.

Let the auction may go on and the petitioner may also participate in the auction"

5. Accordingly, the auction fixed under the impugned notification went on, now when the case is taken up for further hearing today (09.09.2021), Mr.R.Saravanan, the learned Standing Counsel appearing for the respondents, on instructions would



submit that, on the date of auction, there was no response from the petitioner as he did not come forward to participate in the auction, as directed by this Court and therefore, the auction went on, where one Dhanalakshmi has become successful bidder, though all formalities have been completed, to confirm the auction in favour of the said individual Dhanalakshmi, the same could not be made because of the pendency of the Writ Petition. Therefore, the learned Standing Counsel appearing for the respondent seeks dismissal of this Writ Petition as no interest has been shown by the petitioner to come forward to participate in the auction as directed by this Court.

6. The said contention is not controverted on the side of the petitioner and by taking into account of the said fact, this Court feel that in view of the provisions of the State Finance Corporation Act, under which, the respondents are functioning, if there is any over due, the same shall be collected or recovered from the defaulter by bringing the properties, which have already been mortgaged, by way of public auction and that has been done through the impugned proceedings, which was also as per the order of this Court referred to above, where, even though a chance was given to the petitioner, he did not come forward to participate, when the auction went on and a third party rights have been created, where, one Dhanalakshmi has become successful bidder. Hence, this Court feel that there can be no impediment for the respondent to confirm the auction in favour of the successful bidder and proceed in accordance with law.

7. In that view of the matter, there is no merit in this case and accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vrn/tmg

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

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+1 CC to M/s.R.SARAVANAN, Advocate (SR-28765[F] dated
09/09/2021)

W.P.(MD)No.4470 of 2020 and
MP(MD) Nos.3793 of 2020, 3791 of 2021 & 13033 of 2021
Dated:09.09.2021

RK/PM (08/11/2021) 4P 4C