



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.10.2021
PRONOUNCED ON : 28.01.2022

WEB COPY

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.186 of 2021
and W.M.P.Nos.254 & 8923 of 2021

R.Karunanithi

... Petitioner

Vs.

1.The Regional PF Commissioner-II
& Recovery Officer,
Employee's Provident Fund Organisation,
Regional Office,
Bhavishya Nidhi Bhavan,
P.B.No.3875, Dr.Balasundaram Road,
Coimbatore-641 018.

2.M/s.Park Trust,
rep. by its Secretary & Correspondent
-Karthik TR,
No.36, K.P.N. Colony, I Street,
Tirupur-641 601.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 1 and 2 from auctioning the property situated at Naranapuram Village, Palladam Taluk, Tirupur with S.F.Nos.37/1A, 37/2A, 36/1B, 37/1B and consequently direct the first respondent to initiate recovery proceedings against the second respondent in terms of mode of recovery provided under Section 8B and 8F of the EPF & MP Act in respect of arrears of Provident Fund Contribution due by the second respondent in respect of his establishments covered under the EPF Code Nos.CB/CBE/72531, 78034, 28636, 72530 & 78815.

For Petitioner : Mr.S.Ravindran, Sr. Counsel
for Mr.S.Bazeer Ahmed

For Respondent-1 : Ms.R.Meenakshi

For Respondent-2 : Mr.V.Raghavachari
for Mr.M.Venkadesh Kumar



O R D E R

Heard the learned counsel for the parties.

2. The second respondent herein, namely, M/s.Park Trust is an Establishment covered under the Employees Provident Fund and Miscellaneous Provision Act, 1952. The authorities of EPF organization had initiated recovery proceedings for a sum of Rs.1,86,50,890/-.

3. The petitioner herein is admittedly not connected with the business of the second respondent's Establishment. It is the case of the petitioner that he had entered into an agreement for sale on 01.12.2015, for purchasing the properties of the second respondent, comprised in Survey Nos.37/1A, 37/2A, 36/1B & 37/1B, measuring about 8.66 acres. The Sale Deed between the petitioner and the second respondent herein, is yet to be executed.

4. The status of the petitioner that he is only a sale agreement holder with the second respondent herein, is not in dispute. Section 54 of the Transfer of Property Act, 1882 [hereinafter referred to as "TP Act"], does not create any interest or charge over a property for which a contract for sale has been executed between the parties. While that being so, the petitioner, who is an agreement-holder, will not have a vested interest or charge over the properties which are now sought to be recovered by the first respondent herein in view of their charge over the subject property and his claim in the present Writ Petition, is opposed to Section 54 of the TP Act.

5. Furthermore, the petitioner may not have locus to challenge the recovery proceedings initiated by the EPF Authorities against the second respondent and their properties, for the simple reason that he is no way connected or liable for the EPF dues of the second respondent herein. In case, if at all any person is aggrieved against the recovery proceedings initiated by the EPF Authority, it is the second respondent herein, would only be entitled to challenge the same and not the petitioner herein. Incidentally, the second respondent had taken a stand before this Court that they have no objection if their EPF dues are recovered from the subject properties. On this ground also, the petitioner would have no locus to file the present Writ Petition.

6. It is brought to my notice that this Court, in its interim orders dated 07.01.2021, had granted an order of interim injunction on condition that the petitioner deposits the balance of the sale consideration amounting to Rs.52,40,000/- with the first respondent herein, into the EPF Account of the second respondent, which order is said to have been complied by the petitioner. Since the present Writ Petition is now being rejected, the petitioner would be at liberty to approach the first respondent with the



representation seeking for refund of the amount deposited, pursuant to the interim orders of this Court dated 07.01.2021 passed in the present Writ Petition and on receipt of such a representation, the first respondent shall forthwith refund the deposited amount to the petitioner, within a period of one week from the date of receipt of such a representation.

7. Likewise, the first respondent herein are at liberty to proceed against the properties of the second respondent for recovery of the Provident Fund dues of the second respondent, without any further orders of this Court.

8. With the above directions and liberty, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petitions are closed. There shall be no orders as to costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

DP

To

The Regional PF Commissioner-II
& Recovery Officer,
Employees Provident Fund Organisation,
Regional Office,
Bhavishya Nidhi Bhavan,
P.B.No.3875, Dr.Balasundaram Road,
Coimbatore-641 018.

Copy to:

The Secretary and Correspondent,
-Karthik TR
M/s.Park Trust,
No.36, K.P.N. Colony, I Street,
Tirupur-641 601.

+2ccs to Mr.M.Venkadesh Kumar, Advocate SR. No.5020
+1cc to Mr.S.Bazeer Ahamed, Advocate SR. No.5034
+1cc to M/s.R.Meenakshi, Advocate SR. No.5556 (09/02/2022)

W.P.No.186 of 2021

and

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