



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.NOS.28096 OF 2014 AND 5988 OF 2017

AND WMP NO.6419 OF 2017

M/s ACL Cements (P) Ltd.,
Rep by its Managing Director, M.Rajkumar,
243/59, Thandalamcherry Village,
K.S.Road, Gummidipoondi Taluk,
Thiruvallur District - 601 201.

... Petitioner in WP No.28096 of 2014

1.A.Chockalingam

2.M.Jayaraman

... Petitioners in WP No.5988 of 2017

vs

1. The Tamil Nadu Industrial Investment Corporation Limited
rep by its Regional Manager,
Regional Office No.692, Anna Salai,
Nandanam, Chennai-600035.
2. The Branch Manager,
Thiruvallur Branch, The Tamil Nadu Industrial
Investment Corporation Limited,
86, C & D 2nd Main Road, Ambattur Industrial Estate,
Chennai - 600 058.

.... Respondents 1 and 2 in both the writ petitions

3. M/s ACL Cements (P) Ltd.,
Rep by its Managing Director,
M.Rajkumar, 243/59, Thandalamcherry
Village, K.S.Road, Gummidipoondi Taluk,
Thiruvallur District - 605 201

.. 3rd Respondent in WP No.5988 of 2017



Prayer in WP No.28096 of 2014:

Petition filed under Article 226 of the Constitution of India praying to issue writ of Certiorarified Mandamus to call for the records of the first respondent pertaining to the auction sale notice issued in Advertisement No.54/CHRO/2014-15 and published in Dina Thanthi and The Financial Express daily dated 28.09.2014 calling for auction on 29.10.2014 and quash the same and consequently direct the respondents herein to allow the petitioner Company to run the factory and settle the dues to the tune of Rs.2,78,52,000/- as on 31.12.2013 with subsequent interest, in instalments and return the title deeds of the land and factory to the petitioner.

Prayer in W.P.No.5988 of 2017:

Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus directing the respondents 1 and 2 to release the Collateral Security given by the petitioners for the loan amount of Rs.1.07 Crores to the 3rd respondent Company by bringing the principal security located at No.243/59, Thandalamcherry Village, K.S.Road, Gummidipoondi Taluk, Thiruvallur District for public or private sale.

W.P.No.28096 of 2014

For Petitioner : Mr.Venkatesh Mahadevan

For Respondents : Mr.I.Sathish
For R.1 and R.2

W.P.No.5988/2017

For the Petitioners : Ms.T.Phakana
for Mr.K.Udayakumar

For the Respondents : Mr.I.Sathish
For R.1
Mr.Venkatesh Mahadevan
For R.3
R.2 - Served, No appearance

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

W.P.No.28096 of 2014 has been filed to challenge the auction notice dated 28.09.2014 fixing the date of auction to be



29.10.2014 and W.P.No.5988 of 2017 has been filed to seek a direction on the respondents to release the collateral security given by the petitioners therein.

2. Pursuant to an interim order passed by this Court on 29.10.2014, the auction could not be conducted on the stipulated date, however, the petitioner company was directed to deposit a sum of Rs.50,00,000/- in a separate account for it to be adjusted as against the dues. Thereafter, the matters stood adjourned from time to time and in the meanwhile, the parties persuaded themselves for settlement and accordingly, in 2019, it was agreed between the parties that the petitioner company would pay a sum of Rs.3,30,00,000/- with interest to Tamil Nadu Industrial Investment Corporation Limited within a period of eight weeks. However, the aforesaid agreed amount has not been paid by the petitioner company, but now after taking instructions, the petitioner company is willing to pay the amount aforesaid within eight weeks from today.

3. The Corporation claims interest on the aforesaid amount because the intervening period of settling the amount of Rs.3,30,00,000/- is to be taken note of and after taking instructions, the rate of interest has also been fixed at the rate of 13% per annum. The petitioner company is willing to pay the agreed amount of Rs.3,30,00,000/- with interest at the rate aforesaid, but prays for excluding the period of lockdown due to Covid-19 pandemic, for which even exemption was granted by the Apex Court. To the said prayer, no dispute can be raised by the respondent Corporation.

4. Accordingly, the writ petitions are disposed of with a direction to the petitioner company to pay the agreed amount of Rs.3,30,00,000/- (Rupees three crores thirty lakhs only) with interest at the rate of 13% per annum within a period of eight weeks from today excluding the period of lockdown due to Covid-19. The interest on the amount of Rs.3,30,00,000/- would be charged from the year 2019 when the mutual agreement on the aforesaid was made. On payment of the aforesaid amount, the collateral security given by the petitioner in W.P.No.5988 of 2017 would be released and thus, the petitioner in W.P.No.5988 of 2017 would have no dispute. In case of default in making the payment within the stipulated period given thereupon, the consequence would be followed and accordingly, the respondent Corporation would be free to proceed further to recover the amount until the amount is paid. It is made clear that the moment the payment is made by the petitioner company, the respondents would hand over the keys and possession of the property to the petitioner company.



There will be no order as to costs. Consequently,
W.M.P.No.6419 of 2017 is closed.

WEB COPY

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sra

To:

1. The Regional Manager,
Tamil Nadu Industrial Investment Corporation Limited
Regional Office No.692, Anna Salai,
Nandanam, Chennai-600035.
2. The Branch Manager,
Thiruvallur Branch,
The Tamil Nadu Industrial Investment Corporation Limited,
86, C & D 2nd Main Road,
Ambattur Industrial Estate,
Chennai - 600 058.
3. The Managing Director,
M/s ACL Cements (P) Ltd.,
243/59, Thandalamcherry Village,
K.S.Road, Gummidipoondi Taluk,
Thiruvallur District - 601 201.

+1cc to Mr.I.Sathish, Advocate, S.R.No.37904

W.P.Nos.28096 of 2014 and 5988 of 2017

SMI (CO)
PM/22/06/2022