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W.P.No.33610 of 2022

DIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.33610 of 2022

R.Sahil Batra

..

Petitioner

v.

1. Union of India
rep by Joint Secretary (Banking Division)
Department of Financial Services
Ministry of Finance
3rd Floor, Jeevan Deep Building
Sansad Marg, New Delhi 110 001
2. The Assistant General Manager
Asset Recovery Management
Indian Bank, Thousand Lights Branch
G Floor, Kannammai Building
611, Anna Salai, Opp.American Consulate
Thousand Lights, Chennai 600 006
3. The General Manager
Asset Recovery Management Zone



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Indian Bank
55, Ethiraj Salai
Zonal Office Building, IV Floor
Wellington Estate
Egmore, Chennai 600 008

4. The General Manager
Asset Reconstruction Company (India) Limited
10th Floor, The Ruby
29, Senapati Bapat Marg
Dadar West, Mumbai
Maharashtra 400 028

.. Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents herein to disclose, provide especially the details relating to the disposed off movables and immovable properties of M/s Kiran Group of Companies details of valuation of the properties, value of the shares sold in the market, details of the auction purchasers, details of sale consideration and money adjusted to our out standings.

For Petitioner :: Mrs.Kamachi D

ORDER

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

Mr.R.Sahil Batra has come to this Court praying for issuance of a



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writ of mandamus directing the respondents herein to disclose, provide especially the details relating to the disposed off movables and immovable properties of M/s Kiran Group of Companies, details of valuation of the properties, value of the shares sold in the market, details of the auction purchasers, details of sale consideration and money adjusted towards outstandings.

2. Learned counsel appearing for the petitioner submitted that the petitioner's father has been the Managing Director of M/s Kiran Overseas Limited at Chennai and other companies of Kiran Groups and the main business in one of the group companies was the export of leather and leather garments to many European countries, mainly to Soviet Union during the period from 1988 to 1995. The petitioner's mother Smt.Kiran Batra has also been a non-executive director of Kiran Overseas Limited. They have availed credit facilities from the Consortium of Banks including Indian Bank, the respondents 2 & 3 herein. Pari passu charge was also created with the respondents 2 & 3. When M/s Kiran Overseas Limited filed applications



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for extension of time to realize the export bills to the Reserve Bank of India at Chennai, Indian Bank, Thousand Lights Branch, the second respondent herein miserably failed to recommend to the Reserve Bank of India for the extension of time to realize the export bills in order to receive the proceeds of exports. In view thereof, Kiran Overseas Limited had filed suits for recovery against the importers in the High Court of Bombay. But in a criminal complaint filed before the learned Additional Chief Metropolitan Magistrate for Economic Offences-I at Egmore, Chennai, they were discharged. After sometime, the business of the petitioner was declared as NPA by the respondent Bank. Subsequently, the respondents 2 & 3 had also initiated recovery proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act before the Debts Recovery Tribunal-I, Chennai and the details of the value of the properties, both movable and immovable, value of the shares, the details to whom the properties were sold, were not revealed to the petitioner's parents, being the Directors. In the meanwhile, the Vigilance Department also lodged a complaint on 27.06.98 before the Central Bureau of Investigation against



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M/s Kiran Overseas Limited, Chennai and its Directors late O.P.Batra, Mr.Ranjiv Batra and Mrs.Kiran Batra. Thereafter, a final report was also filed on 19.04.2001 against M/s Kiran Overseas Limited at Chennai and at New Delhi and other persons named therein for the offences mentioned therein. Now the grievance of the petitioner, as alleged by learned counsel appearing for the petitioner, is that the respondents 2 & 3, with the help of fourth respondent, had sold away all the movable and immovable properties after 1995 which are worth about Rs.150 Crores and the amount is said to have been adjusted towards the petitioner's loan outstandings. Therefore, a representation was given. Since no action is taken, the petitioner has been advised to come to this Court.

3. We are unable to find any merit or justification to entertain this writ petition, because it is a well settled legal position that a writ of mandamus cannot be straightaway issued unless and until the petitioner first approached the respondents about his grievance. The Apex Court in *Saraswati Industrial Syndicate Ltd. and others v. Union of India, (1974)*



2 SCC 630 has held as follows:-

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“24. As the appeals fail on merits we need not discuss the technical difficulty which an application for a writ of certiorari would encounter when no quasi-judicial proceeding was before the High Court. The powers of the High Court under Article 226 are not strictly confined to the limits to which proceedings for prerogative writs are subject in English practice. Nevertheless, the well-recognised rule that no writ or order in the nature of a Mandamus would issue when there is no failure to perform a mandatory duty applies in this country as well. Even in cases of alleged breaches of mandatory duties, the salutary general rule, which is subject to certain exceptions, applied by us, as it is in England, when a writ of Mandamus is asked for, could be stated as we find it set out in Halsbury's Laws of England (3rd edition, Vol. 13, p. 106):

“As a general rule the order will not be granted unless the party complained of has known what it was he was required to do, so that he had



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the means of considering whether or not he should comply and it must be shown by evidence that there was a distinct demand of that which the party seeking the: mandamus desires to enforce, and that demand was met by a refusal.”

Again in *State of Haryana and another v. Chanan Mal and others*, (1977)

1 SCC 340, the Apex Court has observed as follows:-

"49.(3). Any petitioner who applies for a writ or order in the nature of a Mandamus should, in compliance with a well known rule of practice, ordinarily, first call upon the authority concerned to discharge its legal obligation and show that it has refused or neglected to carry it out within a reasonable time before applying to a Court for such an order even where the alleged obligation is established."

4. In the light of the above, a repeated perusal of the affidavit filed in support of the writ petition by us does not show that the petitioner has made



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any such representation before knocking the doors of this Court. Therefore,
the writ petition is dismissed as not maintainable.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.B.C.,J.)

Index : yes/no

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SS

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