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W.P. No. 1811 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

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

W.P. No. 1811 of 2019

N.Sivaraj

... Petitioner

-VS-

1. The Tamil Nadu Industrial Investment Corporation Ltd.,
Represented by its Chairman,
Having office at No. 692, Anna Salai,
Nandanam,
Chennai – 600 035.

2. The Branch Manager,
Tamil Nadu Industrial Investment Corporation Ltd.,
Villupuram Branch,
No. 23-A, Ranganathan Road,
(Hotel Woodlands Complex),
I Floor,
Chennai – Trichy Trunk Road,
Villupuram – 605 602.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Second Respondent in connection with notice dated 10.12.2018 issued to the Petitioner with Ref. No. TIIC/VPM/LAO/2018-2019 and quash the same and further direct the Respondents to not to proceed against the properties of the Petitioner under Section 29 of the State Financial Corporation Act, 1951.



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For Petitioner : Mr. J. Baranidharan
for Mr. R. Srinivas

For Respondents : Mr. K. Mahesh, Standing Counsel

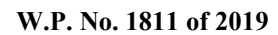
ORDER

Heard Mr. J. Baranidharan, Learned Counsel for the Petitioner and Mr. K. Mahesh, Learned Standing Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. Since the Petitioner has defaulted in the repayment of the term loan of Rs. 75,00,000/- borrowed from the Respondents, possession of the secured asset had been taken under Section 29 of the State Financial Corporation Act, 1951, and it was informed to the Petitioner by the Respondent in Proceedings No. TIIC/VPM/LAO/2018-2019 dated 10.12.2018 that it was proposed to hold tender *cum* public auction of those assets at 11.00 a.m. on 30.01.2019, which is assailed in this Writ Petition.

3. This Court at the time of admission on 24.01.2019 had passed the following self-explanatory order:-

“3. The learned counsel for the Petitioner has raised various



5. Taking into consideration the submission of both sides, there shall be an order of interim stay of the auction notice dated 10.12.2018 on condition that the Petitioner deposits 25% of outstanding due amount of Rs.98,00,000/- in two installments. Accordingly, the Petitioner is directed to deposit the first



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installment of Rs.15,00,000/- (Rupees Fifteen Lakhs only) to the

Respondent\Tamil Industrial Investment Corporation Ltd.,] on or

before 30.01.2019. Further, the Petitioner has to pay the 2nd

installment of Rs.10,00,000/- (Rupees Ten Lakhs only) on or

before 15.02.2019, failing which, the interim stay granted shall

stand vacated automatically, without further reference to this

court.

6. *Post on 31.01.2019 for compliance of the payment of first installment.*

7. *Counsel for the Respondents is permitted to file counter affidavit.”*

4. Learned Counsel appearing for the Respondents, on instructions, states that the Petitioner had remitted amounts aggregating to Rs. 9,50,000/-, but has not complied with the aforesaid order passed by this Court in its entirety, and there were no bidders on the subsequent auctions held on 31.07.2019, 17.04.2020 and 30.12.2020. It has also been brought to notice that during the auction sale conducted on 27.01.2022, the collateral security fetched Rs.



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36,00,000/- and the sale-deed was executed and registered on 08.03.2022 in favour of the successful bidder as against which the Petitioner has filed the Writ Petition in W.P. No. 30043 of 2022 before this Court, which is now pending.

5. At this juncture, reference must be made to the decision of the Hon'ble Supreme Court of India in ***Prestige Lights Limited -vs- State Bank of India*** [(2007) 8 SCC 449], where it has been held as follows:-

"24. An order passed by a competent court - interim or final - has to be obeyed without any reservation. If such order is disobeyed or not complied with, the court may refuse the party violating such order to hear him on merits. We are no unmindful of the situation that refusal to hear a party to the proceeding on merits is a "drastic step" and such a serious penalty should not be imposed on him except in grave and extraordinary situations, but sometimes such an action is needed in the larger interest of justice when a party obtaining interim relief intentionally and deliberately flouts such order by not abiding by the terms and conditions on which a relief is granted by the court in his favour."

Following the said dictum, in the light of the facts narrated supra as borne out



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from the record, it would not be possible to show any more indulgence to the Petitioner, which unwittingly delays the recovery of the public dues owed by him to the Respondent.

6. Moreover, the Petitioner has not been able to demonstrate any error in the decision-making process leading to the impugned order warranting interference by this Court in the exercise of its discretionary powers under Article 226 of the Constitution. Though obvious, it is made clear that the Respondent is not precluded from proceeding further for recovering the amounts due from the Petitioner following the prescribed procedure in accordance with law.

In the result, the Writ Petition, which is devoid of merits, is dismissed.
No costs.

11.12.2023

Index: Yes/No
NCC: Yes/No

Note: Issue order copy by 24.05.2024.

vjt



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To

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P.D. AUDIKESAVALU, J.

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