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Writ Petition Nos.6750 and 6798 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition Nos.6750 and 6798 of 2005

Prabhu Salt Industries, a Registered
Partnership Firm having its Office at
24 B Sandhal Road,
Tuticorin and represented by its
Managing Partner
C.D.Vijaya Rajan

... Petitioner in W.P.No.6750/2005

Raj Salt Industries, a Registered
Partnership Firm having its Office at
Municipal Lorry Nilayam V.E.Road,
Tuticorin and represented by its
Managing Partner
C.Dharmaraj Nadar

... Petitioner in W.P.No.6798/2005

-Vs-

1. The Tamil Nadu Industrial Investment Corporation Ltd.,
No.692, Anna Salai, Nandanam,
Chennai – 600 035.
2. The Branch Manager,
The Tamil Nadu Industrial Investment Corporation Ltd.,
No.4/35, N.P.S. Complex, near New Bus Stand,
Tuticorin.
3. M/s.Panniyar Salt Traders,
Arumuganeri represented by its



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Managing Partner

Thiru R.Kosalai Pannaiyar,

S/o.Ramasamy Nadar, residing at No.6,

West Street, Moolakarai Village, Tiruchendur Taluk,

Tuticorin District.

... Respondents in both W.Ps.

Common Prayer : Writ Petitions under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the notice of the 2nd respondent in TIIC/LAO/2004-05 dated 19.01.2005 and set aside the auction sale effected by the 2nd respondent on 01.02.2005 in favour of the third respondent.

For Petitioners : Mr.T.Srinivasaraghavan
[in both W.Ps.]

For Respondents : Mr.B.Balaji
[in both W.Ps.] for Mr.A.Panneerchelvam [R1 and R2]

COMMON ORDER

The intimation regarding the auction to be conducted on 01.02.2005 in proceedings dated 19.01.2005 is sought to be quashed in these writ petitions.

2. The petitioners are registered partnership firm and engaged in salt production processing of salt and other connected activities. The petitioners are companies registered under the Indian Companies Act, 1913.



3. The grievance of the writ petitioners is that the procedure as contemplated for conducting of auction had not been followed by the respondents and they have committed violation in respect of the procedures to be followed. Thus, the impugned order is liable to be set aside.

4. It is not disputed that the petitioners are defaulters in repayment of loan amount. The learned counsel appearing for the petitioners reiterated that, even in respect of the property that belongs to a defaulter, the respondents are bound to follow the procedures and thus the order impugned is not in consonance with the established procedure. In support of his contention, he relied on the judgment of the Hon'ble Supreme Court in the case of ***Kerala Financial Corporation Vs. Vincent Paul and Anr.*** reported in ***2011 3 LW 114***, wherein the Apex Court laid down the procedures to be followed for the purpose of conducting auction.

5. Pertinently, it is contended that notice was not given properly and 30 days time as stipulated was also not granted to the petitioners. Prize fixed was also improper and incommensurate with the market value of the property. Thus, the respondents have committed violation in respect of the procedure to be followed.



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6. Learned counsel appearing for the respondents 1 and 2 states that the show cause notice was issued in the year 2011 vide proceedings dated 09.02.2011 under Section 29 of the State Financial Corporations Act, 1951[hereinafter referred to as 'the Act']. Thus, the 30 days time was complied with. Pertinently, show cause notice issued under Section 29 of the Act on 09.02.2011 was challenged by the writ petitioners in W.P.No.8618 of 2001, since the writ petition was pending, no further action was taken, the writ petition was dismissed on merits, the petitioners have not paid the arrears of loan amount and after dismissal of the writ petition, again a notice was issued to the petitioners for the purpose of proceeding the auction sale on 01.02.2005, which is again under challenge in these writ petitions. The impugned order dated 19.01.2005 is an intimation provided to the petitioners regarding the auction to be conducted on 01.02.2005. This being the factum, the contention of the writ petitioners that time prescribed had not been given is incorrect.

7. Learned counsel for respondents has further stated that even conditional interim order which was granted in these writ petitions has



not been complied with by the petitioners i.e., this Court directed the petitioners to pay a sum of Rs.25,00,000/- (Rupees twenty five lakhs only) and the said amount has not been paid in the year 2005/2006. That apart, during the pendency of the writ petitions, the auction sale conducted was brought to the notice of this Court and the same was recorded on 15.06.2006 that the successful bidder in the auction sale paid the entire amount and the possession was handed over to the third respondent, who was the auction purchaser. Thus, this Court declined to grant an interim stay.

8. Section 29 of the Act intimates Rights of Financial Corporation in case of default. In the present case, the respondents had followed the procedures as contemplated under Section 29 of the Act. They have issued show cause notice on 09.02.2011 and the petitioners filed a writ petition, which was dismissed. The petitioners failed to comply with the interim order passed by this Court and no payment has been made, subsequently, after the dismissal of the writ petition, the present impugned order has been passed in proceedings dated 19.01.2005 informing the petitioners that the auction scheduled to be conducted on 01.02.2005.



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9. During the pendency of these writ petitions, auction sale was conducted and third respondent was the successful bidder and he took the possession of the said property and the said confirmation order was also not challenged by the writ petitioners, so far these writ petitions has been filed only against the intimation letter dated 19.01.2005 and the subsequent sale confirmation and handing over of possession of the property to the third respondent are not under challenge in these writ petitions.

This being the factum, the writ petitioners are not entitled to any relief in these writ petitions. Accordingly, these writ petitions stand dismissed. No costs.

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Index : Yes
Speaking order: Yes
Neutral Citation: Yes
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S.M.SUBRAMANIAM, J.

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