



W.P.No.29421 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

W.P.No.29421 of 2011
and MP.No.1 of 2011

L. Kumaravel

... Petitioner

Vs.

1. The Regional Provident Fund
Commissioner and Recovery Officer,
Employees Provident Fund Organisation
Sri Jayalakshmi Plaza
Swarnapuri, Salem 636 004.
2. The Branch Manager,
State Bank of Travancore
505, Nethaji Road,
Erode – 638 001.
3. C. Soundararajan
4. The Enforcement Officer,
Employees' Provident Fund Organisation
Income Tax Building
21, Gandhiji Road,
Erode – 638 001.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Certiorarified Mandamus calling for the records relating to the impugned order of Proclamation of Sale proceedings dated 31.10.2011 made in TN/SRO/SLM/2373/Recovery/2011-EPF CP 13 passed by the 1st respondent and the consequential auction sale held on 09.12.2011 quash the same and consequently forbear the 1st respondent from proceeding against the subject matter property measuring an extent of 5.26 acres comprised in S.F.No.231/1 and 231/2A, Kaverypatti Agraharam Village, Sankari Taluk, Salem district to recover the alleged liability of a non existing establishment by considering the petitioner's representation dated 07.11.2011.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.P.K.Paneerselvam for R1 & R4
Mr.S.P.Chockalingam for R2

ORDER

This writ petition has been filed challenging the order of Proclamation of Sale proceedings dated 31.10.2011 made in TN/SRO/SLM/2373/Recovery/2011-EPF CP 13 passed by the 1st respondent and the consequential auction sale held on 09.12.2011 and consequently, forbear the 1st respondent from proceeding against the subject property measuring an extent of 5.26 acres comprised in S.F.No.231/1 and 231/2A,



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Kaverypatti Agraharam Village, Sankari Taluk, Salem District to recover the alleged liability of a non existing establishment by considering the petitioner's representation dated 07.11.2011.

2. The learned counsel for the petitioner submitted that the impugned Proclamation of Sale Proceedings dated 31.10.2011 was passed by the first respondent for recovery of a sum of Rs.15,87,958/- towards EPF contribution and it was followed up by auction sale held on 09.12.2011. Subsequently, on 20.12.2011, this Court passed an order of interim stay on condition that the petitioner pays 50% of the amount due under the impugned order before the first respondent and in view of the order of interim stay, the first respondent has withdrawn the auction notice and refunded the money, thereafter, the petitioner has paid the entire EPF contribution of Rs.15,87,958/- during the pendency of this writ petition and the amount which the petitioner had to pay was only the administrative charges of Rs.60,000/- and that was also paid by the petitioner on 05.06.2023 and a copy of the letter acknowledging the receipt of payment by the first respondent is also produced before this Court. Hence, at present, there are no dues to be recovered from the petitioner.



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3. In regard to the damages under Section 14-B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the petitioner had already given a representation on 07.12.2022 for waiver of the damages and the same was rejected by the EPFO by order dated 17.01.2023 and it is open to the first respondent to initiate fresh proceedings under Section 14(b), *ibid.* for claiming damages and under Section 7-Q, *ibid.*, for the belated interest from the petitioner.

4. The learned counsel for the petitioner further submitted that the petitioner will give another representation to the first respondent for waiver of damages within a period of two weeks from the date of receipt of a copy of the order and also mark a copy to the Central Board of Trustees, Employees Provident Fund Organisation (EPFO), New Delhi. If any representation is made to the first respondent, thereafter the same may be considered on merits and in accordance with law within a period of four weeks.

5. The learned counsel for the first respondent also agreed that the petitioner has paid the administrative charges of Rs.60,000/-.



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6. With the above observation and direction, this writ petition is disposed of. No costs. Consequently connected miscellaneous petition is also closed.

07.06.2023

dpq
Index : Yes/No
Speaking Order : Yes/No



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J. SATHYA NARAYANA PRASAD, J.

dpq

To

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