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W.P. No. 4251 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

CORAM

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

W.P. No. 4251 of 2021

and

W.M.P. No. 4856 of 2021

M/s. Sakthivel Modern Rice Mill
Represented by its Proprietor
K.Sivakumar,
Door No. 18, Oraiyur Road,
Thorapaddi Village,
Pudupettai – 607108,
Panruti Taluk, Cuddalore.

... Petitioner

-VS-

1. The Managing Director,
The Tamilnadu Industrial Investment Corporation Limited,
Head Office,
No. 692, Anna Salai,
Nandanam,
Chennai – 600035.

2. The Branch Manager,
The Tamilnadu Industrial Investment Corporation Limited,
Cuddalore Branch,
No. 60/1B, 1st Floor,
Imperial Plaza,
Near Employment Office,
Nellikuppam Main Road,
Cuddalore – 607001.

...

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, to call for the records of the



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Respondents in the notice in No. TIIC/BO/CUD/FU/LAO/2020-21 dated 22.01.2021 and quash the same as illegal.

For Petitioner : Mr. D.Senthil Kumaar

For Respondents : Mr. K.Mahesh,
Standing Counsel (for R1 & R2)

O R D E R

Heard Mr. D.Senthil Kumaar, 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 various loans borrowed from the Respondent, constructive possession of the secured assets had been taken under the State Financial Corporation Act, 1951, and it was informed to the Petitioner by the Respondents by Proceedings No. TIIC/BO/CUD/FU/LAO/2020-21 dated 22.01.2021 that it was proposed to hold e-auction sale of those assets between 11.00 a.m. and 1.00 p.m. on 25.02.2021, which is assailed in this Writ Petition.

3. This Court at the time of admission on 22.02.2021 had passed the following self-explanatory order:-



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“3. The learned counsel for the petitioner submitted that due to pandemic situation the entire business activity has been stopped and therefore he was not in a position to make the payments to the first respondent Corporation and therefore the Corporation has brought the petitioner's property for auction. He further submitted that the petitioner is taking bonafide efforts to sell one of his property and to settle the dues to the respondent Corporation. To show his bonafide, he is also inclined to pay a sum of Rs.5 lakhs immediately within a period of two days from the date of receipt of a copy of this order and to make payment of another Rs.5 lakhs within a period of two weeks from today. He also undertakes to file an affidavit regarding the mode of payment in which he intends to settle the amount to the respondent Corporation. He also filed an affidavit dated 22.02.2021.

4. In view of the submissions made and affidavit filed by the learned counsel for the petitioner, there shall be an order of interim stay as prayed for till 10.03.2021.”



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Though the Petitioner has undertaken in his affidavit dated 22.02.2021 that the house-site measuring an extent of 1.44 Acre comprised in Old S.R. No. 118, New S.R. No. 46/3, R.S. No. 46/3B1A in Thorapadi Village, Panruti Taluk, Cuddalore District belonging to him would be disposed so that he could repay the dues, nothing has been done in that regard till date. The COVID pandemic situation, which was cited as prevailing at the time of passing of that interim order, also no longer exists.

4. At this juncture, reference has to 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



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

5. Moreover, the Petitioner has not been able to demonstrate any error in the decision-making process leading to the impugned orders 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. Consequently, the connected Miscellaneous Petition is closed. No costs.

14.12.2023

Index: Yes/No

NCC: Yes/No



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Note: Issue order copy by 22.05.2024.

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To

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P.D. AUDIKESAVALU, J.

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