



W.P.No.25180 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.25180 of 2023

M/s.India Resurgence ARC Pvt., Ltd.,
(formerly known as Piramal Assets Reconstruction Pvt. Ltd.)
Registered office at
3rd Floor, Piramal Tower,
Peninsula Corporate Park,
Gannatran Kadam Marg,
Lower Parel, Mumbai – 400 014,
Branch Office at
No.766, Sakthi Towers,
Executive Zone, Anna Salai,
Chennai – 600 002,
represented by its Authorised officer,
A.Joseph Rahul

... Petitioner

versus

1.The Village Administrative Officer,
Vengathur Village,
Manavalan Nagar,
Thiruvallur – 602 002.

2.The Tahsildar,
Thiruvallur -602 002.

.....Respondents



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Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the first and second respondent herein to consider the representation dated 09.08.2023 for issuance of necessary classification certificate for the schedule mentioned property land measuring an extent of 9779 sq.ft together with building situated in Hotel Geetha Bhavan No.1, SPH Road, Manavala Nagar comprised in survey No.490/2A and 490/2B Vengathur Village, Manavala Nagar SRO, Tiruvallur District in accordance with law.

For Petitioner : Mr.V.Balasubramani

For Respondents : Mr.P.Gurunathan
Additional Government Pleader

ORDER

The petitioner has come forward with the present writ petition seeking for issuance of a Writ of Mandamus directing respondents 1 and 2 herein to consider his representation dated 09.08.2023, wherein and whereby, he sought for issuance of necessary classification certificate for the schedule mentioned property i.e., land measuring an extent of 9779 sq.ft together with building situated in Hotel Geetha Bhavan No.1, SPH Road, Manavala



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Nagar comprised in survey No.490/2A and 490/2B at Vengathur Village,
Manavala Nagar SRO, Tiruvallur District in accordance with law.

2.The brief facts of the case are as follows :

(i) The petitioner is a Company incorporated under the Companies Act, 2013 with corporate identification number U67190 MH2016 PTC27 2471 registered as an Asset reconstruction company pursuant to Section 3 of the SARFAESI Act, 2002, as per the Gazette Notification dated 05.08.2016. The borrower M/s.Best Exports represented by Mr.D.Dhamodharan along with other borrowers had approached M/s.Religare Finvest Ltd., (RFL) for availing housing loan, executed Loan Agreements and obtained loans and they have also created mortgaged over the subject property along with other property in favour of the said M/s.Religare Finvest Ltd and they undertook to repay the said loan amount without any default. In the meanwhile, M/s.Religare Finvest Ltd., (RFL) had assigned the financial assets/debts due and payable by the borrowers arising out of the loans along with the underlying securities in favour of the petitioner-Company vide Deed of Assignment dated 05.11.2019. As per the said Assignment Deed, the



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petitioner-Company is the absolute owner and the petitioner-Company is the one who legally entitled to receive the repayment of the loans or any part thereof.

(ii) Since the borrowers committed default in payment of installments, the petitioner company had classified the borrowers account as Non-performing Asset and issued statutory notice on 02.05.2022 calling upon the borrowers to discharge their liabilities within a prescribed time period, since the borrower were neglected to regularize the loan account, the petitioner further issued possession notice dated 02.07.2022.

(iii) Further, the petitioner filed an application under Section 14 of the SARFAESI Act in Crl.M.P.Sr.No.2656 of 2022 before the Chief Judicial Magistrate, Thiruvallur for appointing an Advocate Commissioner to take possession of the said mortgaged properties and handover the same to the petitioner-Company. The said petition pending for clarification as the Encumbrance certificate shows that the property in question is classified as agricultural lands. Therefore, the petitioner was directed to submit a



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necessary certificate received from the appropriate authority to prove that the subject property is not in the nature of agricultural land. Therefore, the petitioner, approached the first respondent for issuance of classification certificate. However, the first respondent did not show any interest to issue the said certificate for past several months.

(iv) While so, the petitioner-Company filed W.P.No.18118 of 2023 to expedite the petition filed under Section 14 of SARFAESI Act, 2002 and the same was allowed and directed the petitioner to re-present the petition with necessary documents within a period of two weeks from the date of receipt of a copy of the order. Since the petitioner did not receive the necessary classification certificate, he is not in a position to re-present the petition which was filed under Section 14 of SARFAESI Act, 2002. Hence, the petitioner has given a representation dated 09.08.2023 to respondents 1 and 2. However, they have not considered the same till date and hence, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that as the



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petitioner has given all the required documents, respondents 1 and 2 ought to have issued the classification certificate as per the representation given by the petitioner on 09.08.2023 but till date they have not issued the certificate.

4. On a perusal of the records, it is seen that Chief Judicial Magistrate, Thiruvallur has not given any written direction to the petitioner to submit necessary certificate received from the appropriate authority to prove that the subject property is not in a nature of agricultural land. Hence, the petitioner approached the first respondent/Village Administrative Officer for obtaining necessary certificate and has also given the representation. The Village Administrative Officer is not a competent authority to issue the certificate as sought for by the petitioner. The petitioner can approach the competent authority for issuance of classification certificate and if the competent authority fails to issue such certificate, it is for the petitioner to work out his remedy in the manner known to law.

5. For the foregoing reasons, this writ petition is dismissed. There



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shall be no order as to costs.

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Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ms

To

- 1.The Village Administrative Officer,
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Thiruvallur – 602 002.
- 2.The Tahsildar,
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