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W.P. No. 32102 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

CORAM

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

W.P. No. 32102 of 2023

and

W.M.P. Nos. 31680 and 31681 of 2023

P.M.Karuppusamy

... Petitioner

-VS-

The Branch Manager
Tamil Nadu Industrial Investment
Corporation Ltd., C.S.Sengottaiah Complex
No.23, Chidambaram Colony
80 Feet Road, Periyar Nagar
Erode – 1.

... Respondent

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 relating to the impugned order of the respondent in his proceedings No. TIIC/ERD/LAO/2023-24, dated 04.10.2023 and quash the same consequently directing the Respondent to accept the One Time Settlement offered by the Petitioner.

For Petitioner : Mr. C.Prakasam

For Respondent : Mr. K.Magesh



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ORDER

Heard Mr. C.Prakasam, Learned Counsel for the Petitioner and Mr. K.Magesh, Learned Counsel, who takes notice for the Respondent 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 loans borrowed from the Respondent, constructive possession of the secured assets had been taken on 17.01.2002 under Section 29 of the State Financial Corporation Act, 1951. When the secured asset was brought for sale in public auction pursuant to the advertisement no. TIIC/CBE/RO/2011-12/07 dated 23.01.2012 published in Dinathanthi dated 01.02.2012, the Petitioner challenged it in the Writ Petition in W.P. No. 3634 of 2012, which was disposed by this Court in the order dated 24.03.2022 holding as follows:-

“3. At the time of admission on 15.02.2012, this Court granted an interim order permitting the respondent to proceed with the auction, but not to confirm the auction till the disposal of the Writ Petition.



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4. *The learned counsel appearing for the petitioner submitted*

that as per the order of this Court, the petitioner paid a sum of Rs.1,50,000/-, Rs.29,500/- and Rs.50,000/-, totally Rs.2,29,500/-.

The learned counsel appearing for the petitioner further submitted that the petitioner will give representation to the respondent for one time settlement.

5. *The learned counsel appearing for the respondent submitted that the petitioner borrowed a sum of Rs.1,70,000/- on 26.03.1990 and he has not repaid the said amount. In view of the same, the property of the petitioner was brought for sale by conducting public auction. The public auction was conducted on 16.02.2012 and the highest bid was Rs.7,80,000/-. The learned counsel appearing for the respondent further submitted that now the respondent is offering one time settlement even for the amount below Rs.10,00,000/- and it is open to the petitioner to make a representation to the respondent for one time settlement.*

6. *Recording the above submissions made by both sides, the Writ Petition is disposed of directing the petitioner to give a*



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representation to the respondent for one time settlement within a period of three(3) weeks from the date of receipt of a copy of this order. On receipt of such representation, the respondent is directed to consider the same and pass orders on merits and in accordance with law, within a period of four(4) weeks thereafter and till such time, not to confirm the auction. No costs. Consequently, connected Miscellaneous Petition is closed.”

It is not disputed that the Petitioner had not approached the concerned authority for settlement of the dues thereafter. In that backdrop, it was informed to the Petitioner by the Respondents by Proceedings No. TIIC/ERD/LAO/2023-24 dated 04.10.2023 that it was proposed to hold e-auction sale of those assets between 11.00 a.m. and 1.00 p.m. on 17.11.2023, which is assailed in this Writ Petition.

3. 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



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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 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.

4. 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.



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In the result, the Writ Petition, which is devoid of merits, is dismissed.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

15.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 24.05.2024.

Maya

To

The Branch Manager
Tamil Nadu Industrial Investment
Corporation Ltd., C.S.Sengottaiah Complex
No.23, Chidambaram Colony
80 Feet Road, Periyar Nagar
Erode – 1.



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P.D. AUDIKESAVALU, J.

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