**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 15.02.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)No.22336 of 2021**
**and**
**W.M.P(MD)No.18895 of 2021**

AMMAN – TRY Trading Company Private Limited,
Represented through its Manager,
Balu @ Balasubramaniyan(M-31/2021)
S/o.Kumar,
46, Usman Ali Street,
TCS Toll gate,
Trichy District – 620 001. ... Petitioner

Vs

1.The State represented by
Represented through its Principal Secretary,
Department of Revenue,
Chennai.

2.The Principal Commissioner and
Commissioner of Land Administration,
Chepauk,
Chennai.

3.The Additional Chief Secretary to
Government of Revenue Department,
Department of Revenue,
Chennai.

4.The District Collector,
Trichy,
Trichy District.

5.The District Revenue Officer,
Trichy,
Trichy District.

6.The Revenue Divisional Officer,
Trichy,
Trichy District.

7.The Sub Registrar,
K,Sathanur,
Trichy District.

8.The Tahsildar,
Trichy West Taluk,
Trichy District.

9.The Zonal Deputy Tahsildar,
Trichy West Taluk,
Trichy District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned proceedings of sixth respondent in Pa.Mu.A.-7-1240-2016 dated 29.08.2016 and quash the same as illegal and consequently directing the ninth respondent to issue patta in favor of petitioner company in respect of the landed properties lie in Survey numbers 82/1, 82/2, 82/3, 82/4, 82/5, 101/1, 101/2, 101/3, 116/3, 116/4,117/1, 117/2, 88/8, 93/2, 93/3, 93/4, 92/4, 86/6, 87/11, 89/4, 118/2, 127/2, 127/3, 127/4 of Panjapoor Village (Ward AN Block-2 Pinmalai Zone) Trichy West Taluk, Trichy District.

| | | |
|---|---|---|
| For Petitioner | : | Mr.S.R.Rajagopal<br>Senior Counsel<br>for C.M.Arumugam |
| For Respondent | : | Mr.Veera Kathiravan<br>Additional Advocate General<br>Assisted by<br>Mr.B.Saravanan<br>Additional Government Pleader |

**ORDER**

Heard the learned Senior Counsel appearing for the writ petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader appearing for the respondents.

2.The writ petitioner purchased 83 acres of land in Panjappur Village in Trichi District in an e-auction conducted by Security and Exchange Board of India (SEBI). Patta was issued in favour of the petitioner for an extent of 52.52 acres. The National Highways acquired lands to an extent of 7.44 acres. However, patta was not issued for the remaining 23.04 acres. When the petitioner agitated the matter, they were informed that vide proceedings dated 29.08.2016, the Revenue Divisional Officer, Trichy had ordered deletion of the names of the individuals which were appearing in the revenue record and directed restoration of the original position as if they are tharisu lands. The petitioner's efforts to obtain patta for the petition mentioned 23.04 acres of land could not fructify in view of the aforesaid order. Hence the petitioner was constrained to question the same.

3.The specific stand of the writ petitioner is that the petition mentioned properties originally stood in the name of Sahara India Real Estate Corporation Limited. The lands in question had been mortgaged in favour of the said company by the persons in whose name the lands stood. Since the land owners committed default, the mortgagee, namely, Sahara brought them to auction and bought it for themselves. Since Sahara Committed default towards its depositors, SEBI stepped in protect their interest. It attached the Sahara properties found all over India which also included the properties located in Trichy. The matter was eventually taken up by the Hon'ble Apex Court. The promoters of Sahara namely Thiru.Subrato Roy filed an affidavit before the Hon'ble Apex Court giving his consent for selling Sahara properties so that he can be granted bail. The Supreme Court of India ordered sale of the properties attached by SEBI.

4.The learned Senior Counsel appearing for the writ petitioner would specifically contend that these properties were actually identified by SEBI only based on the inputs given by the District Collector, Trichy. It is true that SEBI issued E-auction notice on 17.11.2016 and auction took place on 25.12.2016.

The learned counsel would specifically contend that even though the auction notification as well as auction took place subsequent to passing of the impugned order, they are only a continuation of the earlier attachment proceedings. He also would point out that before the impugned order was passed neither Sahara nor SEBI nor the predecessors-in-title were put on notice. He would add that Income Tax Department had also attached the very same properties even prior to SEBI's order. He called upon this Court to set aside the impugned order and allow the writ petition as prayed for.

5.The respondents have filed counter affidavit and the learned Additional Advocate General took me through its contents. The learned Additional Advocate General would controvert the assertion made by the learned Senior Counsel appearing for the petitioner that the details of the properties were furnished by the District Collector, Trichy. He called upon this Court to dismiss the writ petition.

6.I carefully considered the rival contentions and went through the materials on record.

7.I consciously refrain from traversing the entire gamut of controversy. This is because the very same order passed by the Revenue Divisional Officer, Trichy was put to challenge by another aggrieved individual in W.P(MD)No. 3642 of 2022. The writ petitioner therein had also purchased the properties only in the year 2016-2020. Yet a learned Judge of this Court took the view that since predecessor in title was not put on notice, the purchaser can take advantage of the same. The learned Judge concluded that the principles of natural justice have been clearly violated in this case. In that view of the matter, the order was set aside and the matter was remitted to the file of the District Revenue Officer to decide the issue afresh.

8.I am also inclined to adopt the very same approach. It is true that the auction proceedings have taken place subsequently. But materials have been placed before me indicating that there was correspondence between the SEBI and the District Magistrate, Trichy. My attention has been drawn to the communication dated 04.04.2013 written by SEBI wherein SEBI had called upon the District Collector, Trichy to identify any other properties owned or leased or occupied by Sahara in Trichy District. It is not known if this communication was responded to. Obviously, the file must be only with the District Collector, Trichy. I went through the contents of the impugned order. Petition was received from a few persons on 29.08.2016. On the same date the impugned order has been passed. Of course, there is reference to communication dated 06.07.2016 received from the District Collector, Trichy.

All that the impugned order reads is that the patta transfer has been effected without getting proper orders during UDR and therefore the names of the persons introduced during UDR had to be deleted. As rightly pointed out by the learned Senior Counsel appearing for the writ petitioner, this order can be assailed on more than one ground. If really mistake had crept in during UDR, then the District Revenue Officer alone can correct the said error. The Revenue Divisional Officer, Trichy obviously lacked the jurisdiction to pass the impugned order.

9.Be that as it may, the persons whose names appeared in the revenue record on that date when the impugned order was passed were not put on notice. Therefore, the order impugned in the writ petition is set aside. The matter is remitted to file of the District Revenue Officer, Trichy. The District Revenue Officer, Trichy is directed to hold an enquiry and pass order on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. The petitioner will be granted an opportunity of personal hearing. The petitioner can place all the materials on record. The District Revenue Officer shall send for the relevant correspondence file between SEBI and the District Collectorate in this regard. I make it clear that I have not gone into the merits of the matter. All the contentions of the writ petitioner are left open. This writ petition is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.



**15.02.2023**

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

1.The Principal Secretary,
Department of Revenue,
Chennai.

2.The Principal Commissioner and
Commissioner of Land Administration,
Chepauk,
Chennai.

3.The Additional Chief Secretary to
Government of Revenue Department,
Department of Revenue,
Chennai.

4.The District Collector,
Trichy,
Trichy District.

5.The District Revenue Officer,
Trichy,
Trichy District.

6.The Revenue Divisional Officer,
Trichy,
Trichy District.

7.The Sub Registrar,
K,Sathanur,
Trichy District.

8.The Tahsildar,
Trichy West Taluk,
Trichy District.

9.The Zonal Deputy Tahsildar,
Trichy West Taluk,
Trichy District.

**G.R.SWAMINATHAN, J.**

MGA

W.P(MD)No.22336 of 2021
and
W.M.P(MD)No.18895 of 2021

15.02.2023