



W.P(MD)Nos.25494 and 25495 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P(MD)Nos.25494 and 25495 of 2023

and

W.M.P(MD)Nos.21665, 21667 and 21669 of 2023

and

W.M.P(MD)Nos.21668, 21670 and 21672 of 2023

W.P(MD)No.25494 of 2023:

- 1.Selvasivalingam
- 2.Annapoorani

... Petitioners

Vs.

- 1.The Competent Authority,
District Revenue Officer,
Virudhunagar – 626001,
Virudhunagar District.
- 2.Avin General Manager/Madurai,
The Competent Authority(Incharge),
Virudhunagar.
- 3.The Inspector of Police,
Economic Offences Wing – II,
Virudhunagar – 626 002,
Virudhunagar District.
- 4.The Rich India Marketing Private Limited,
Rep. by its Manager/Partner,
Subburaj.
- 5.Subburaj

... Respondents



W.P(MD)Nos.25494 and 25495 of 2023

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned auction sale notice issued by the first respondent in Na.Ka.C4/3187/2010 dated10.2023 signed on 05.10.2023 in respect of Serial Nos.1 and 2 of list 3 more fully described in the schedule of properties and quash the same and consequently, direct the respondent to defer the auction sale till the disposal of C.M.A(MD)SR.No.63165 of 2023.

W.P(MD)No.25495 of 2023:

1.Prabanagalingam
2.Nagalingam

... Petitioners

Vs.

1.The Competent Authority,
District Revenue Officer,
Virudhunagar – 626001,
Virudhunagar District.

2.Avin General Manager/Madurai,
The Competent Authority(Incharge),
Virudhunagar.

3.The Inspector of Police,
Economic Offences Wing – II,
Virudhunagar – 626 002,
Virudhunagar District.

4.The Rich India Marketing Private Limited,
Rep. by its Manager/Partner,
Subburaj.

5.Subburaj

... Respondents



W.P(MD)Nos.25494 and 25495 of 2023

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned auction sale notice issued by the first respondent in Na.Ka.C4/3187/2010 dated10.2023 signed on 05.10.2023 in respect of Serial Nos.4 & 3 of list 3 more fully described in the schedule of properties and quash the same and consequently, direct the respondent to defer the auction sale till the disposal of C.M.A(MD)SR.No.63439 of 2023.

(In both W.Ps)

For Petitioners :Mr.N.Dilipkumar

For R-1 & R-3 :Mr.N.Muthuvijayan

Special Government Pleader

For R-2 :Mr.Devasenar

For R-4 & R-5 :Mr.G.Thalaimutharasu

COMMON ORDER

W.P(MD)No.25494 of 2023 is filed challenging the impugned auction sale notice issued by the first respondent in Na.Ka.C4/3187/2010 dated10.2023 signed on 05.10.2023 in respect of Serial Nos.1 and 2 of list 3 more fully described in the schedule of properties and quash the same and consequently, direct the respondent to defer the auction sale till the disposal of C.M.A(MD)SR.No.63165 of 2023.

2. W.P(MD)No.25495 of 2023 is filed challenging the impugned auction sale notice issued by the first respondent in Na.Ka.C4/3187/2010



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dated10.2023 signed on 05.10.2023 in respect of Serial Nos.4 & 3 of list 3 more fully described in the schedule of properties and quash the same and consequently, direct the respondent to defer the auction sale till the disposal of C.M.A(MD)SR.No.63439 of 2023.

3. It is the submission of the learned counsel for the petitioners that in the auction sale notice, dated 05.10.2023 in Na.Ka.C4/3187/2010, the properties of three Financial Establishments are sought to be sold in public auction by the Competent Authority.

4. As regards the petitioners' properties are concerned, they are in Serial Nos.1 to 4 of the schedule of properties in Item No.3. It is the submission of the learned counsel for the petitioners that the properties were purchased by the petitioners on 11.08.2010. These properties were purchased from one Subburaj of Rich India Marketing Private Limited. Subsequent to the purchase, these properties were mortgaged with the bank for obtaining loan for the purpose of business development on 05.07.2011 and 01.07.2015. On the allegation of cheating a large number of depositors, an F.I.R., has been registered as against the said Subburaj on 27.10.2020. Petitioners are the bonafide purchasers of the properties. However, petitioners' properties are sought to be attached and sold in auction sale in a proceedings taken under Section 8 of the Tamil Nadu Protection of



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Interests of Depositors(In Financial Establishments) Act, 1997(in short
“TNPID Act”)

5. The petitioners challenge the auction notice on the following grounds:

(i) There is no reference about Section 8 of TNPID Act, in the auction sale notice.

(ii) In the interim attachment order passed by the Government of Tamil Nadu in G.O.Ms.No.844 of 2011, dated 12.12.2011, these properties are not covered.

(iii) The learned Special Judge, Special Court under TNPID Act Cases, passed an order that from the sale amount, the loans obtained by the petitioners from the bank are to be satisfied first. This is against the interest of the petitioners and it is not reflected in the auction sale notice.

(iv) Fifteen days time is given for giving objections to the auction sale notice. Therefore, the petitioners have time till today for giving their objections. In such circumstances, selling properties in Court auction on 25.10.2023 would not be in the best interest of the petitioners and would seriously affect the petitioners and it is also illegal.



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6. This Court on going through the provisions, especially Section 11 of TNPID Act, finds that any person including the Competent Authority, if aggrieved by an order of the Special Court, may appeal to the High Court within thirty days from the date of order.

7. Auction notice is issued in compliance to the order passed by the learned Special Judge, Special Court under TNPID Act Case, Madurai in O.S.No.11 of 2015. Therefore, when statutory appeal remedy is provided, filing of writ petition is not maintainable. This view was taken by this Court when a writ petition was filed and pending in W.P(MD)SR.No.11480 of 2023 wherein it was observed that “the objection raised by the Registry is sustained. Under Section 11 of the TNPID Act, only Civil Miscellaneous Appeal will lie and the writ petition is not maintainable”. Therefore, there is no doubt that the writ petitions filed by the petitioners are not maintainable. That apart, this Court finds that when the petitioners have already filed two Civil Miscellaneous Appeals with condone delay petitions in C.M.A(MD)SR.No.63165 of 2023 and in C.M.A(MD)SR.No.63439 of 2023 against the orders passed by the Special Judge, Special Court under TNPID Act Case, Madurai in O.S.No.11 of 2015, filing of writ petitions as indicated above are not maintainable.



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8. In this view of the matter, these writ petitions are dismissed.

No Costs. Consequently, connected miscellaneous petitions are closed.

20.10.2023

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Index:Yes/No

NCC:Yes/No

To,

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G.CHANDRASEKHARAN, J.

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