



W.P.No.1263 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.1263 of 2024

1. M/s.Industrial Connections
Rep. by its Proprietor S.Elamathy
PK 17, 1st Floor, SIDCO Industrial Estate
Guindy, Chennai – 600 032.
 2. S.Elamathy
 3. S.Pugazhendi
 4. M/s.La Moto
Rep. by its Proprietor S.Elamathy
No.4/61, Kundrathur Mangadu Main Road
Kollachery, Kundrathur
Chennai – 600 069.
- .. Petitioners

Vs.

1. M/s.Encore Asset Reconstruction Company Pvt. Ltd.
Represented by its Authorised Officer
5th Floor, Plot No.137, Sector 44
Gurugram – 122 002, Haryana.
2. Perfect Tool & Die Makers Private Limited
Rep. by its Directors
Having Office at No.19 & 20, Saranya Nagar
Thirumudivakkam, Chennai – 600 044.



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3. Karthikeyan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the record in relation to Sale Notice vide letter No.EARC/23-24/50/LM and IC/MA/01 dated 30.12.2023 fixing the sale on 24.01.2024 issued by the 1st Respondent and quash the same.

For the Petitioners : Mr.P.Tamilavel

For the Respondents : Mrs.S.R.Sumathy
for R1

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.P.Tamilavel, learned counsel for the petitioners and Mrs.S.R.Sumathy, learned counsel for the first respondent.

2. The first respondent has issued a sale notice for sale of movable properties on 30.12.2023. It is submitted that the properties put to sale are not hypothecated nor mortgaged with the bank. Learned counsel for the petitioners submits that the said machineries are imported machineries and four month's time would be required to remove the same.



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3. Learned counsel for the first respondent submits that the fixed assets have been auctioned and the sale certificate is also issued on 31.05.2023. The machineries lying there are not removed by the petitioners. The bank was asking the petitioners to remove the machineries, however, for more than seven months, the petitioners have not removed the machineries, as such, the bank was required to take steps to auction the said machineries.

4. Seven months is not a short period for the petitioners to remove the machineries. The dispute, according to the petitioners, is pending with the Debts Recovery Tribunal – III, challenging the sale of the fixed assets. The dispute between the parties would be decided by the Debts Recovery Tribunal. The movables, which were to be put to sale by the bank, are not hypothecated as submitted by learned counsel appearing for the first respondent.

5. Considering the request made, we permit the petitioners to remove the said machineries within a period of six weeks from today.



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If within six weeks, the petitioners' machineries are not removed, the parties may take appropriate steps.

6. In light of the above, the writ petition stands disposed of. There shall be no order as to costs. Consequently, W.M.P.No.1321 of 2024 is closed. W.M.P.No.1320 of 2024, filed to permit the petitioners to file a single writ petition is allowed and disposed of, inasmuch as the petitioners have paid separate sets of court fee.

(S.V.G., CJ.)

(D.B.C., J.)

22.01.2024

Index : Yes/No
Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(drm)

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