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W.P.No.15455 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.15455 of 2024

and

W.M.P.Nos.16791 & 16794 of 2024

M/s.Achutha Engineering Company (P) Ltd.,
Rep. by its Managing Director G.Narayanan,
S.No.682, Plot No.3 (C-1),
E and E Industrial Estate,
Hosur – 635 109.

..... Petitioner

Vs

1.Tamil Nadu Industrial and Investment Corporation Ltd.,
Plot No.308 & 309, SIPCOT Industrial Complex,
Opp to LAL, Near SBI/HOSTIA Office,
Income-Tax Office, BSNL Tower,
Mookandapalli, NH-47, Hosur – 635 126.

2.Canara Bank,
Rep. by its Branch Manager,
Hosur Main Branch,
Krishnagiri District.

3.S.Sivalingam

..... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari calling for records pertaining to the E-auction proceedings No.TIIC/BO/HSR/Legal/2023-24 dated 05.12.2023 culminating in the sale of subject immovable property dated 21.02.2024 and to



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quash the impugned sale deed registered as document No.4336 of 2024 dated 21.02.2024 at the office of SRO Hosur.

For Petitioner : Mr.P.Madhavan
For R1 : Mr.K.Magesh
For R2 : Mr.M.S.Viswanathan
Standing Counsel
For R3 : Mr.N.Manokaran

ORDER

This Writ Petition has been filed challenging the proceedings dated 05.12.2023 and the sale deed dated 21.02.2024 vide document No.4336 of 2024.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner approached the first respondent for financial assistance. The first respondent sanctioned various categories of loans in the nature of Term Loan, Working Capital, Loan, SBL, TLSP etc. Due to COVID 19 pandemic circumstances, the petitioner did not repay the loan amount and committed default. Therefore, the first respondent classified the petitioner's account as Doubtful Assets Category and issued foreclosure notice dated 08.11.2021 and demanded the petitioner to pay the outstanding liabilities



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within 15 days from the date of receipt of the notice. The first respondent issued notice dated 11.01.2022 by way of reminder to settle the outstanding dues on or before 19.01.2022, failing which, appropriate action will be taken under Section 29 of the State Financial Corporations Act, 1951. However, the petitioner was not able to comply with the same and as such the first respondent issued e-auction cum sale dated 06.11.2023 to sell the subject property through public auction. The first respondent fixed the rate at Rs.244.89 Lakhs and 205.28 Lakhs for the hypothecated machinery by fixing the date of auction cum sale dated 05.12.2023. Thereafter, the petitioner was served with a notice dated 04.01.2024, thereby stated that the immovable properties were already sold out in public auction and the plant and machineries were also sold out in the public auction.

4. The learned counsel appearing for the petitioner would submit that the asset price fixed by the respondent was very low for the property, which was purchased by the third respondent, through auction. Once again, the third respondent had availed loan from the second respondent bank. A mortgage deed was executed for more than four crores for the very same property within a period of few months from the date of purchasing the property. Therefore, the upset price fixed by the respondent is very low and



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there was no transparency in the auction. That apart, the first respondent itself cannot take action as against the petitioner's properties, since under Section 29 of the State Financial Corporations Act, 1951, the first respondent is not coming under the State Financial Corporation as defined under Section 3 of the State Financial Corporations Act, 1951.

5. A perusal of the counter filed by the first respondent and the submission made by the learned Standing Counsel reveals that the petitioner filed a writ petition before this Court in W.P.No.8000 of 2022 challenging the foreclosure notices dated 08.11.2021 and 11.01.2022. This Court stayed the said notices on condition that the petitioner shall pay a sum of Rs.35 Lakhs on or before 18.04.2022, another sum of Rs.35 Lakhs on or before 16.05.2022 to the first respondent, failing which, the order passed by this Court shall stand automatically vacated and it is open to the respondent to proceed further. However, the said conditions were not complied with and by an order dated 19.04.2022, the stay petition was dismissed. The main writ petition itself is dismissed for default on 09.11.2023. Thereafter, the subject property was brought for public auction on 05.12.2023 and upset price was fixed for plant and machinery at 205.53 Lakhs and factory land and building at Rs.244.89 Lakhs. In the auction, a sum of Rs.2,45,14,000/- for factory and building and a



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sum of Rs.2,05,53,000/- for machinery were received from the highest bidders.

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6. Once again, the petitioner filed another writ petition in W.P.No.2359 of 2024 challenging the notices dated 17.11.2023 and 04.01.2024. The said writ petition was dismissed by this Court by an order dated 14.02.2024. In fact, the petitioners raised the very same ground in W.P.No.2359 of 2024 while challenging the notices dated 17.11.2023 and 04.01.2024, thereby informing the petitioner about the fixation of the upset price of the property prior to conduct e-auction. However, the said ground was rejected by this Court that the petitioner has any objection or grievance over the fixation of upset price, it ought to have been raised it immediately. Having failed to do so, the petitioner cannot question the fixation of upset price of the property after the e-auction has been conducted after due notice to it.

7. Once again, the petitioner filed another writ petition in W.P.No.9548 of 2024, challenging the notice dated 12.03.2024, thereby, requested the petitioner to remove their machinery from the auctioned building to enable the first respondent to hand over possession in favour of the auction purchaser viz., the third respondent. This Court granted time till 20.05.2024 for removing their machinery and handing over the vacant possession, failing



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which, the first respondent will remove the machinery on 21.05.2024 and evict the petitioner with the support of necessary police authorities and handover the property to the successful purchaser. Subsequently, the above said writ petition was also dismissed by an order dated 26.04.2024.

8. In this writ petition, the petitioner completely suppressed the above writ petitions and raised the very same grounds. Admittedly, the petitioner committed default and as such the first respondent brought the property for auction. The third respondent purchased the same and the sale was also confirmed by the first respondent and issued sale certificate in favour of the third respondent. Insofar as the loan availed by the petitioner by mortgaging the very same property by the second respondent is concerned, though the petitioner applied for loan to a sum of Rs.4 Crores, the petitioner was disbursed the loan amount to a sum of Rs.1,83,00,000/-. Even assuming that the second respondent disbursed more amount, it does not mean that the property more than the value which was purchased by the petitioner. Therefore, the first respondent rightly auctioned the property and the third respondent purchased the same. In fact, the third respondent was issued sale certificate and possession was also handed over to him.



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9. In view of the above, this Court finds no infirmity or illegality in the auction proceedings dated 05.12.2023 as well as the sale deed dated 21.02.2024 executed in favour of the third respondent registered vide document No.4336 of 2024. Thus, the writ petition lacks merits and it is liable to be dismissed. Accordingly, this writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To

The Branch Manager,
Canara Bank,
Hosur Main Branch,
Krishnagiri District.

G.K.ILANTHIRAIYAN. J.

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