



WEB COPY



W.A.No.1994 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA ,
CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

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1. The Managing Director,
The Tamil Nadu Co-Operative Milk
Producers Federation Ltd.,
Nos.29 & 30, Industrial Estate,
Ambattur, Chennai - 600 098.

2. The Joint Managing Director,
Tamil Nadu Co-operative Milk
Producers' Federation Ltd.,
Nos.29 & 30, Industrial Estate,
Ambattur, Chennai - 600 098.

.. Appellants

Versus

G.Subramani

.. Respondent

Prayer : Writ Appeal under Clause 15 of the Letters Patent to set aside the judgment passed on 12.07.2019 made in W.P.No.24959 of 2009 and allow the present Writ Appeal.

For Appellants : Mr.R.Balaramesh

For Respondent : Mr.S.Giritharan



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JUDGMENT

WEB COPY (Judgment of the Court is made by the Hon'ble Chief Justice)

Heard Mr.R.Balaramesh, learned Counsel for the appellants and Mr.S.Giritharan, learned Counsel for the respondent.

2. The respondent had bid pursuant to the auction sale notice. The auction was held on 16.06.2008. The respondent was the successful bidder. The confirmation of sale in favour of the respondent was issued on 22.09.2008. The respondent did not proceed with the work. The appellants forfeited the E.M.D amount. Aggrieved thereby, the respondent filed the Writ Petition. The learned Single Judge allowed the Writ Petition. Assailing the said order, the present appeal is filed.

3. The learned Counsel for the appellants submits that as per Clause - 11 of the conditions of sale, if the highest bidder neglects or refuses to pay the balance amount within the time notified, the deposit amount already paid by him will be forfeited and the lot will be resold at his risk and expense. If the amount fetched in the resale is more than the original bid, he will not be entitled to any advantage in the resale. The learned Counsel submits that the said clause was invoked by the appellants.



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4. The learned Single Judge has allowed the Writ Petition filed by the respondent and directed the appellants to refund the amount of E.M.D to the respondent on the ground that the appellants failed to confirm the auction within 30 days.

5. It is not disputed that the bid of the respondent was accepted on 16.06.2008. The confirmation of the sale, in favour of the respondent, was issued only on 22.09.2008. Clause - 1 of the conditions of sale provides that the auction sale is held by the Tamil Nadu Co-operative Milk Producers' Federation Ltd., and is subject to confirmation within 30 days. The appellants are guilty of the breach of the said condition itself. When the appellants are in breach of the condition of the sale, the appellants cannot forfeit the amount of the E.M.D. The learned Single Judge has considered the said aspect in its correct prospective.

6. In the light of that, this Writ Appeal stands dismissed. There shall be no order as to costs. Consequently, C.M.P.No.16932 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no



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

grs

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