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W.P.Nos.30285 & 30286 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P.Nos.30285 & 30286 of 2024

and

W.M.P.Nos.32965 & 32966 of 2024

T.K.S.Pugazhendhi

... Petitioner
in W.P.No.30285 of 2024

G.Jothipaul

... Petitioner
in W.P.No.30286 of 2024

Vs.

1.Mr.Ebenezar Inbaraj
Liquidator of M/s.Kanishk Gold Private Limited,
Registration No.IBB1/PA-001/IP
P00754/2017/2018/11286
No.397, Precision Plaza
No.23, Third Floor, Teynampet,
Anna Salai, Chennai – 600 018.

2.State Bank of India,
Represented by its
Assistant General Manager,
Stressed Asset Management Branch,



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Red Cross Building, Egmore, Chennai – 600 008.

3. Bhoopesh Kumar Jain

Erstwhile Managing Director of the Corporate Debtor,
No.28/29, Kothari Road,
Nungambakkam, Chennai - 600 034.

4. Neeta Bhupeshkumar Jain

Erstwhile Director of the Corporate Debtor,
28/29, Kothari Road,
Nungambakkam, Chennai - 600 034.

5. The National Company Law Tribunal,
Court -I, Represented by its Registrar,
II Floor, Corporate Bhavan,
Beach Road, Chennai – 600 001.

... Respondents
in both writ petitions

Prayer in W.P.No.30285 of 2024 : Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the 1st respondent from confirming the sale of the properties more fully described as Lot Nos.I, II and III in Auction Sale Notice dated 09.09.2024 issued by him, pursuant to the Auction Sale proposed to be held on 09.10.2024, during the pendency of the Application filed by the petitioner in IA/(IBC)/1980/CHE/2024 on the file of the 5th respondent herein.

Prayer in W.P.No.30286 of 2024 : Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the 1st respondent from confirming the sale of the properties more fully described as Lot No.IV in Auction Sale Notice dated 09.09.2024 issued by



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him, pursuant to the Auction Sale proposed to be held on 09.10.2024, during the pendency of the Application filed by the petitioner in IA/(IBC)/1980/CHE/2024 on the file of the 5th respondent herein.

For Petitioner	:	Mr.N.Ramakrishnan in both the writ petitions
For R1	:	Mr.E.Om Prakash Senior Counsel for Mr.B.Thilak Narayanan in both the writ petitions
For R2	:	Mr.M.L.Ganesh in both the writ petitions
For R3 and R4	:	No appearance in both the writ petitions
R5	:	Tribunal

COMMON ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

These two writ petitions are filed for issuance of a Writ of Mandamus forbearing the 1st respondent from confirming the sale of the properties in Lot Nos.I to IV pursuant to the auction sale notice dated 09.09.2024 and the sale held on 09.10.2024, during the pendency of application filed by petitioners before the fifth respondent (NCLT).



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2.This Court finds no merits or substance to entertain writ petitions of this nature, as the learned counsel for the petitioners is unable to explain several aspects which we need not elaborate in this order. The petitioners obtained an interim order of injunction on 09.10.2024, by expressing their willingness to make payment of the upset price. It is relevant to extract Para No.5 and 6 of the interim order dated 09.10.2024 :

“5.These issues cannot be gone into under Article 226 of the Constitution of India. However, admittedly, the petitioners have filed applications under Section 60(5), ibid. Further, the petitioners have also expressed their willingness to make payment of the upset price.

6.In view of the fact that the petitioners have shown their bona fides and also in order to protect the interest of the petitioners pending the applications filed under Section 60(5), ibid., there shall be an order of interim injunction restraining the first respondent from confirming the sale in the event of any auction sale being conducted today as proposed. This order of interim injunction shall be in force for a period of two weeks from today.”



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(S.S.S.R., J.) (A.D.M.C., J.)
23.10.2024

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Neutral Citation : Yes / No



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S.S. SUNDAR, J.
and
Dr.A.D. MARIA CLETE, J.

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To

The Registrar,
National Company Law Tribunal,
Court -I,
II Floor, Corporate Bhavan,
Beach Road, Chennai – 600 001.

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23.10.2024