



W.P.(MD) Nos.5678 of 2020
and 11892 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.5678 of 2020
and
W.P.(MD) No.11892 of 2019
and
W.M.P.(MD) Nos.4952 of 2020
and
W.M.P.(MD) Nos.4951 and 8986 of 2019

W.P.(MD) No.5678 of 2020:

M.Sheik Dawood

... Petitioner

Vs.

1.The Employees Provident Fund Organisation,
Rep., by its Commissioner,
37, Royapettah High Road,
Opposite Swagat Hotel,
Chennai-600 014.

2.The Recovery Officer,
Employees Provident Fund Organisation,
Regional Office,
Ministry of Labour-Government of India,
Lady Doak College Road, Chokkikulam,
Madurai-625 002.

... Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari, to call for the records pertaining to the Impugned proclamation of sale notice in MD/MDU/159/Recy/M-02/CP-13/2020 on the file of the Respondent No.2, dated 20.01.2020 and quash the same as illegal or in the alternative, allow the petitioner to bid in the impugned proclamation, adjust the money deposited by the petitioner towards the previous sale notice along with accrued interest in the present auction.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.A.John Xavier

W.P.(MD) No.11892 of 2019:

M.Sheik Dawood

... Petitioner

Vs.

1.The Employees Provident Fund Organisation,
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... Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari, to call for the records pertaining to the Impugned E-Auction sale notice on the file of the Respondent No.2, dated 03.05.2019 published in Hindu English Newspaper and quash the same as illegal.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.R.Ravikumar

COMMON ORDER

Both the learned counsel appearing for the respondents in these writ petitions having taken note of the totality in circumstances and facts of the case, fairly conceded that the respondents have no right to retain the money of the petitioner, which is being claimed by the petitioner in these two writ petitions.

2. Further, from the facts of the case also, it is evident that the respondents have already undertaken to refund the amount of the petitioner



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after deducting the cost that are incurred for conducting auction sale pursuant to the proclamation sale dated 04.06.2010 as early as on 30.09.2019. Considering the undertaking given by the respondents in W.P.(MD) No.11726 of 2010 and batch, dated 30.09.2019, a learned Single Judge of this Court hoping that the auction sale will be conducted soon and the amount will be refunded to the petitioner herein, has not passed any positive order.

3. A learned Division Bench of this Court also in W.A.(MD) No. 1234 of 2013 and batch, dated 11.10.2018, having taken note of the undertaking given by the respondents for refunding the amount deposited by the petitioner pursuant to the auction sale dated 04.06.2010, has not passed any positive order. But for whatever be the reason, the proposed auction sale could not take place till date and the amount of the petitioner still remains with the respondent Organisation.

4. Today Sri R.Ravikumar, learned counsel appearing for the respondents in W.P.(MD) No.11892 of 2019, submitted that the amount in



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respect of which attachment of the subject property was effected is already settled and the question of conducting any auction pursuant to the previous attachment does not arise now. In the circumstances, in the absence of any possibility of conducting auction pursuant to the earlier attachment, the question of the respondent retaining the amount of the petitioner, which was deposited pursuant to the proclamation sale deed dated 04.06.2010 is totally impermissible.

5. In the circumstances, both the writ petitions are disposed of directing the respondents to forthwith refund the amount deposited by the petitioner in terms of the undertaking given by them as noted above. Under no circumstances, the refund of the amount shall be delayed beyond two weeks from the date of receipt of a copy of this order.

6. The contention of the learned counsel for the petitioner for grant of interest on the ground of delayed refund of the amount is concerned, it is left open to the petitioner to agitate his claim by initiating appropriating



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proceedings. No costs. Consequently, connected miscellaneous petitions are closed.

04.03.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

ABR



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MUMMINENI SUDHEER KUMAR, J.

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