



W.P(MD)No.20403 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.20403 of 2018

and

W.M.P(MD)Nos.18170, 18171 & 20098 of 2018

M/s.HBD Financial Services Limited,
Represented by its Associate – legal,
R.Madhukumar

... Petitioner

Vs

1.The District Collector,
Kanyakumari District, Nagercoil.

2.The Competent Authority/The District Revenue Officer,
Kanyakumari District,
District Collector Office Campus,
Nagercoil.

3.The Inspector of Police,
Economic Offence Wing – II,
Ozhugunesery, Nagercoil,
In Crime No.1 of 2017,
Kanyakumari District.

4.Nirmalan

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the second respondent vide impugned auction notice dated 06.09.2018 vide proceedings in Na.Ka.No.C4/37134/2017 in respect of the vehicles at serial Nos.2, 4, 7 and 9 bearing Registration Nos.KL 19 7273, KL 19 A 3787, KL 19 A 3996, KL 19 9360 and quash the same.



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For Petitioner : Mr.R.Pon Karthikeyan
For RR 1 & 2 : Mr.D.Gandhi Raj
Special Government Pleader
For R – 3 : Mrs.M.Aasha
Government Advocate (Crl. Side)

ORDER

This Writ Petition has been filed by the petitioner challenging the auction notice dated 06.09.2018 issued by the second respondent.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The petitioner is a financier. The fourth respondent approached Edapazhang Branch at Tiruvananthapuram, Kerala District of the petitioner for loan against his vehicles namely Swaraj Mazda Limited, MGV-Goods Carriers Truck bearing Registration Nos. KL 19 7273, KL 19 A 3787, KL 19 A 3996 and KL 19 9360. The loan



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application was approved to the tune of Rs.5 crores to the fourth respondent by endorsing the petitioner's name in the registration certificate of those vehicles through the Regional Transport Office, Parasala, Kerala State. While being so, the third respondent registered F.I.R in Crime No.1 of 2017 as against the fourth respondent for the offences under Sections 406, 420, 120(B) of I.P.C and Section 5 of the Tamil Nadu Protection of Interests of Depositors (in Financial Establishment) Act, 1997 and Sections 4c and 5(a) of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. In pursuant to the registration of the case, this Court formed a committee in order to assist the second respondent to deal with the properties belonging to the accused and the third respondent who is also being the part of the committee shall assist the second respondent to carry out auction proceedings and to auction the properties disclosed by the accused persons. Accordingly, the second respondent issued an auction notice in order to auction the vehicle which was standing in the name of the fourth respondent.

4.The petitioner raised contentions that all these vehicles were under hypothecation in favour of the petitioner.



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Therefore, those vehicles cannot be auctioned in pursuant to the registration of F.I.R against the fourth respondent. The fourth respondent is the main accused and while dealing with the anticipatory bail application filed by his wife and another, they had filed a proposal for settlement before this Court and handed over the list of movable and immovable properties including 13 vehicles. Accordingly, the competent authority, namely the second respondent issued an auction notice in order to sell the vehicles.

5.In view of the interim order passed by this Court dated 25.09.2018, the second respondent was not able to auction the vehicle. Further, the vehicles are in the custody of the third respondent. Insofar as the criminal case is concerned, after completion of the investigation, they filed a final report and the same has been taken cognizance in C.C.No.6 of 2019 on the file of the TANPID Court, Madurai. In view of the above, this Court finds no infirmity or illegality in the auction notice issued by the second respondent, dated 06.09.2018 and the Writ Petition itself is devoid of merits and the same is liable to be dismissed.



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6. Accordingly, this Writ Petition is dismissed. The second respondent is directed to auction the vehicles in the manner known to law. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

19.11.2024

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

Order made in
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