



W.P.No.2907 of 2012

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.2907 of 2012

Laxminarayan Cotton Company,  
rep. by its Partner Nand Kishore Bung,  
Main Road,  
Shorapur-585 224,  
Yadagiri District,  
Karnataka State.

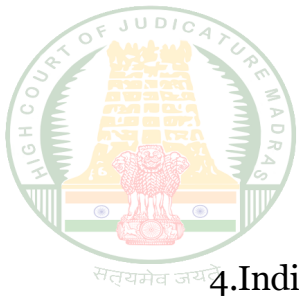
.. Petitioner

vs

1.Jawahar Mills Limited,  
rep. by its Managing Director,  
No.64, Nehru Nagaram,  
Salem-636 005.

2.The Secretary to Government of India  
in the Ministry of Finance,  
North Block,  
New Delhi.

3.The Reserve Bank of India,  
Fort Glacis,  
Rajaji Salai, Chennai-600 009.



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4. Indian Overseas Bank,  
rep. by its Regional Manager,  
Ideal Garden Complex,  
2<sup>nd</sup> Floor, 5-Roads,  
Salem-636 006.

5. The Authorised officer,  
Indian Overseas Bank,  
Salem Main Branch,  
No.36/671, Car Street,  
Salem-636 001.

6. V.S. Murugan,  
Proprietor : M/s. Hari Tex,  
No.63, Patel Rad,  
Ram Nagar, Coimbatore-641 009.

7. Cenney Hotels Pvt. Ltd.,  
rep. by its Managing Director,  
97, Saradha College Road,  
Salem-636 004.

8. S.K. Sengoda Gounder (deceased)

9. S. Jagadeesan

10. V. Sundaresan

11. S. Tamilarasi

12. V. Sivakumar

13. The Sub-Registrar,  
Registration Department,  
Sooramangalam,  
Salem.

14. The District Registrar,  
Registration Department,  
Salem.



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15.Shree Vasanta

.. Respondents

[Respondent No.15 substituted as legal heir of deceased respondent No.8 as per the order dated 17.10.2024 in W.M.P.No.2396 of 2019]

Prayer : Petition under Article 226 of the Constitution of India seeking issuance of a writ of calling for the records from the 4<sup>th</sup> and 5<sup>th</sup> respondents in respect of the issuance of the sale certificates, namely; (a) Sale certificate No.2/2007 dated 24.12.07 issued in favour of Thiru S.K.Sengoda Gounder, son of Kuppusamy Gounder, and 2) Thiru S.Jagadeesan, son fo S.K.Sengoda Gounder, both residing at No.3/340, Rajaji Road, Salem-636 007; (b) Sale Certificate No.3/2007 dated 24.12.07 issued in favour of Cenney Hotels (P) Ltd., through its Managing Director, Thiru s.Venkatesh, son of P.Sengodan, with its Registered Office at 97/4, Sarada College Road, Salem-636 004; (c) Sale Certificate No.4/2007 dated 24.12.07 issued in favour of Mr.V.Sundaresan, son of Varadaraj, (2) Mrs.S.Tamilarasi, wife of V.Sundaresan, both residing at No.3, Kmarapalayam Post, via Mallur, Rasipuram Tk, Salem Dt.; (d) Sale Certificate No.5/2007 dated 24.12.07 issued in favour of V.Sivakumar, son of K.Velusamy Gounder, 101-B, Sri Lakshmi Towers, No.257, Mettupalayam Road, Coimbatore and quash the same.

For Petitioner

: Mr.N.Surya Senthil  
for M/s.Surana and Surana



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For Respondents

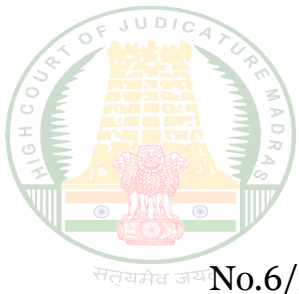
- : Ms.Rachana Shankar  
for Mr.F.B.Benjamin George  
for respondent Nos.4 and 5
- : Mr.E.K.Kumaresan  
for respondent Nos.9 to 11 and  
15
- : Mr.M.Habeeb Rahman  
Government Advocate  
for respondent Nos.13 and 14
- : No appearance  
for respondent Nos.1, 2, 3, 7
- : R6 & R8 – Deceased
- : R12 - Not Ready in Notice

**ORDER**

(Order of the Court was made by the Hon'ble Chief Justice)

It is seen from the prayer that petitioner is challenging the sale of the properties to respondent No.6, who has subsequently sold to respondent Nos.7 to 10. We are informed that respondent Nos.6 and 8 have died. Their legal heirs have been brought on record.

2. Admittedly, the sale was confirmed in favour of respondent



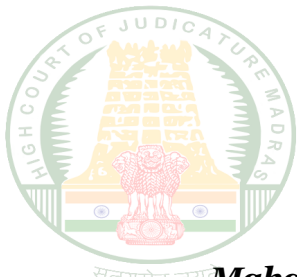
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No.6/respondent Nos.7 to 10 pursuant to a judicial order passed by this Court on 16<sup>th</sup> November, 2006 in W.P.No.37139 of 2005. Respondent No.1 carried the matter in appeal and the appeal in W.A.No.1595 of 2006 came to be dismissed. Counsel for petitioner states even the SLP was later dismissed. Therefore, the sale has been confirmed pursuant to a judicial order and it has attained finality.

3. In our view, the same cannot be challenged by petitioner, who is neither a borrower, nor a guarantor, but only a decree-holder against respondent No.1. Counsel for petitioner further states respondent No.1 has been liquidated or ordered to be liquidated. If that is the case, it has to stand in the queue before the Official Liquidator, if the liquidation has happened under the Companies Act, 1956 or before the Liquidator appointed by the NCLT, if the liquidation has happened under the provisions of the Insolvency and Bankruptcy Code, 2016.

4. Counsel for petitioner relies on a judgment of a Division Bench of the Bombay High Court in ***Shailesh K. Bothra and others v. State of***



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**Maharashtra and others<sup>1</sup>** to submit that if the sale has not been conducted strictly in accordance with the tender conditions, the sale will be bad. The fact is sale in this case has been confirmed by a Co-ordinate Bench of this Court and the appeal against that order as well as the SLP have been dismissed. Therefore, the judgment in *Shailesh K. Bothra* (supra) is of no assistance to petitioner.

5. Petition is dismissed. There shall be no order as to costs.

(K.R.SHRIRAM, C.J.)

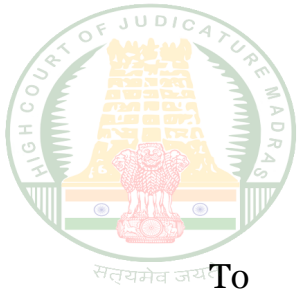
(MOHAMMED SHAFFIQ, J.)

26.02.2025

Index : Yes/No  
NC : Yes/No  
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<sup>1</sup> 2023 SCC OnLine Bom 1394



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