



W.A.No.952 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2025

CORAM :

**THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN**

**W.A.No.952 of 2023
and
CMP.No.9436 of 2023**

1.The Industries Commissioner and
Director of Industries & Commerce,
Chepauk, Chennai-5.
Now at Guindy, Chennai - 32.

2.The Deputy Director (Industrial Co-operatives)/
Official Liquidator, CTAL Building,
Guindy, Chennai - 32.

3.The Additional Secretary,
Department of Micro,
Tiny and Medium Industries,
Secretariat, Govt. of Tamil Nadu,
Chennai - 9.

Vs.

...

Appellants

M/s.Alliance Orchid Mall Private Limited,
2nd Floor, Jeevan Anand Building,
556, Anna Salai, Chennai - 600 018.

...

Respondent



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PRAYER: The Writ Appeal has been filed under Clause 15 of Letters Patent to set aside the order dated 13.02.2023 made in W.P.No.15075 of 2010 and allow the writ appeal.

For Appellants ... Mr.P.Muthukumar
Additional Assistant General
Assisted by
Mr.V.Manoharan
Additional Government Pleader

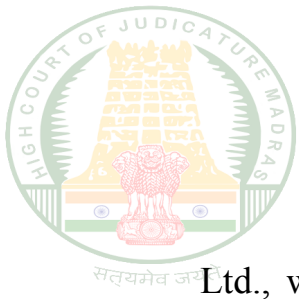
For Respondent ... Mr.R.Viduthalai
Senior Counsel
for Mr.S.Sethuraman

JUDGMENT

(The judgment of this Court was made by S.M.Subramaniam,J.,)

Under assail is the writ order dated 13.02.2023 passed in W.P.No.15075 of 2010, the Industries Commissioner and Director of Industries & Commerce, The Deputy Director (Industrial Co-operatives)/ Official Liquidator along with the Additional Secretary, Department of Micro, Tiny and Medium Industries, filed the present intra-court appeal.

2.Uncontroverted facts between the parties would show that the Automobile Workshop Owners Service Industrial Co-operatives Society

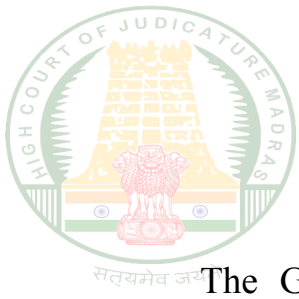


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Ltd., which is a society registered under the Tamil Nadu Co-operative Societies Act, 1983, was wound up and an Official Liquidator was appointed under Section 137 of the Tamil Nadu Co-operative Societies Act, 1983. The second appellant is the liquidator, who took charge over the administration of the liquidated co-operative society.

3. Tender notification was issued on 24.07.2008 for conducting public auction of the immovable property of the said co-operative society situated at Korattur Village (Saidapet Taluk), Chennai. Public auction was held on 04.08.2008 and the respondent participated in the auction process. The respondent was identified as the highest bidder. The second appellant Official Liquidator sent a letter to the Commissioner of Industries and Commerce/Registrar of Co-operative Society seeking approval as mandated under the provisions of the Tamil Nadu Co-operative Societies Act and Rules. The Registrar of Co-operative Society/Commissioner of Industries and Commerce found that the value of the property exceeds 50 lakhs and therefore, approval of the Government is required as per law. The Commissioner accordingly addressed a letter to the Government on 29.07.2008 seeking approval of the Government.



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The Government rejected the proposal sent by the Second appellant mainly on the ground that the land belongs to a Co-operative Society and the said valuable land to be utilized for developing a Convention Centre for MSME department and accordingly, directed the Registrar/Commissioner of Industries Commerce and the Liquidator to cancel the tender-cum- auction sale conducted on 04.08.2008 and refund the EMD and deposit to the respondent herein as per the terms and conditions of tender-cum -auction notice. The said decision was intimated to the respondent vide letter dated 04.06.2010 by the liquidator. The said letter came to be challenged in the writ petition. Since the writ petition was allowed, the State preferred the present writ appeal.

4. The learned Additional Advocate General appearing on behalf of the appellants would mainly contend that the process of auction admittedly had not concluded. No confirmation letter has been issued in favour of the respondent. Even at the initial stage, the Commissioner of Industries and Commerce /Registrar of Co-operative Societies addressed a letter to the Government seeking approval since the sale price exceeds 50 lakhs. The Government has taken a decision not to issue a



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confirmation letter and directed the Commissioner of Industries and Commerce and the liquidator to cancel the tender-cum-auction for the purpose of utilizing the land for public purposes through MSME department. One of the tender conditions in clause 11 states that

“The bid will be confirmed after obtaining the approval of the Commissioner of industries and Director of Industries and Commerce, Chennai – 5. Intimation will be given to the high bidder after approval of Commissioner of Industry and Director of Industry and Commerce, Chennai – 5. Informed within 30 days, the bidder should pay the security deposit and 15% of the bid amount to the Deputy Director (IC), Guindy, Chennai – 32. Bidder shall arrange for registration of bond at his own expense on payment of full bid amount. If the balance amount is not paid within 30 days as mentioned above, the auction will be cancelled without further reminder notice and only the security deposit already paid by the bidder will be forfeited. Also the said property will be put up for sale through re-tender and public auction.”

Clause 12 confers full power to cancel or postpone the auction by the Deputy Director (IC)/Official Liquidator. and



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Clause 7 states that The official Liquidator shall have the authority to ascertain whether the quoted price / bid amount is reasonable for the said land. The Official Liquidator reserves the right to hold a re-sale or postpone the sale if he considers that the prices given are insufficient.

Therefore, there is no procedural irregularity or arbitrariness and the writ court has committed an error in not considering the condition stipulated in the tender-cum-auction notification while allowing the writ petition.

5.The learned Senior Counsel Mr.Viduthalai appearing on behalf of the respondent would oppose by stating that, no confirmation letter has been issued, but the authorities are not expected to act in an arbitrary manner so as to cancel the tender-cum-auction without considering the fact that the respondent is the highest bidder and paid 15% of the EMD as demanded. The learned Single Judge has elaborately considered the fact and circumstances and found that the cancellation of tender-cum-auction is not only arbitrary but not in consonance with the provision of co-operative Societies Act and granted the relief.



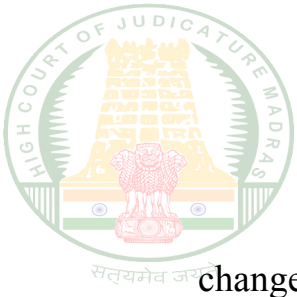
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6.The learned Senior Counsel placed reliance on the judgment of the Division Bench of the High Court of Madras in the case of ***A.R.Safiullah Vs. The Managing Director of Ors*** reported in ***MANU/TN/0717/2010***. Further, clause 11 of tender notification only seeks an approval from the first appellant /The Industries Commissioner and Director of Industries and Commerce for the confirmation of sale and it does not give power to the first appellant either to cancel or confirm the sale.

7.It is further submitted that there is no absolute power retained by the appellants to cancel the tender without any reason whatsoever. It is further submitted that the learned Single Judge has recorded that the subject property has been presently classified as primary residential Zone, which is not disputed by the Additional Advocate General. Therefore, the relief granted by the writ court is in accordance with law.

8.The terms and conditions stipulated in the tender-cum-auction notification cannot be changed after the tender conditions. In the present case, the respondent participated in the tender and thereafter, they have



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changed the condition which is unacceptable and the writ Court placed reliance on the said principles.

9.This Court heard the arguments of the learned Additional Advocate General for the State and the learned Senior Counsel for the respondent.

10.Admittedly, the subject property belongs to the Automobile Workshop Owners Service Industries Co-operative Society Ltd., which is a co-operative society registered under the Tamil Nadu Co-operative Societies Act. The Society faced financial constraint and an Administrative decision was taken to wind up the society by invoking Section 137 of the Tamil Nadu Co-operative Societies Act. Accordingly, the Second appellant was appointed as an Official Liquidator to complete the process of winding up. Therefore, the powers, duties and the procedures to be followed by the Official Liquidator under the Co-operative Societies Act in respect of the Co-operative Society needs to be considered for the purpose of deciding the issues raised in the present case.



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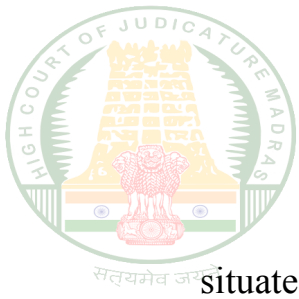
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11. Section 137 states about winding up of the Registered Society.

Section 138 speaks about liquidator and Section 139 provides power of liquidator.

12. The Act contemplates that an approval of the Registrar is required for the purpose of confirming the auction sale. In the present case, admittedly, the auction was conducted on 04.08.2008 and the respondent participated and was identified as the highest bidder. The Official Liquidator sent a proposal to the Commissioner of Industries and Director of Industries and Commerce / Registrar for grant of approval under the provisions of the Tamil Nadu Co-operative Societies Act.

13. Since the sale price exceeds 50 lakhs, permission from the Government is required as per the Government regulations. Thus, the Commissioner of Industries and Director of Industries and Commerce sent a letter to the Government seeking permission to confirm the auction sale. The Government examined the proposal sent by the Commissioner of Industries and Director of Industries and Commerce. The Government found that the value of the land is very high and the subject property is

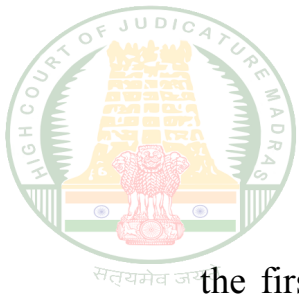


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situated in the prime locality in Chennai City. Therefore, the land is to be utilized for public purposes.

14.In paragraph – 4 of the counter, it is stated that the liquidator addressed a letter to the first appellant on 05.08.2008 requesting permission to confirm the sale of the property. Since the value of the property is huge, permission from the Government is essential. Consequently, the Government was addressed by the first appellant vide letter dated 14.11.2008 requesting permission to dispose of the land to the highest bidder. The Government advised a scheme establishing a mini industrial estate through SIDCO and thereby generate new employment opportunities. The Government in letter dated 16.11.2009 directed the first appellant to transfer the land to the Tamil Nadu Small Industries Development Corporation, SIDCO which is doing yeoman services for industrial development in the state by way of establishing industrial estates. This decision was taken by the Government considering the involvement of the social cause of establishing many industries and thereby generating huge employment opportunities. Immediately, the Tamil Nadu State Industrial Development Corporation was addressed by



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the first appellant requesting to convey their willingness for taking over the property at the rate mutually agreed upon between the Government and the Corporation. After placing the subject in the Board meeting of the Corporation SIDCO expressed its willingness to take over the property at the cost of Rs.370 lakhs per acre for developing flatted estate in the said land for the welfare of Micro and Small Entrepreneurs. The transferring of the property to the Corporation is nearing completion. Accordingly, the first appellant advised to the second appellant liquidator vide letter dated 03.05.2010 to cancel the tender cum auction sale conducted on 04.08.2008 and refund the EMD and deposit to the highest bidder/respondent as per the terms and conditions of the tender-cum-auction sale. The second appellant/liquidator by invoking condition No.12 of the terms and conditions of the tender-cum-auction cancelled the tender cum auction sale conducted on 04.08.2008 and refunded the EMD and deposit amount to the respondent vide letter dated 04.06.2010. The cheque bearing No.015940 dated 04.06.2010 for Rs.92,03,700/- was returned back by the petitioner through a revised cheque No.015942 dated 19.07.2010 for the same amount.



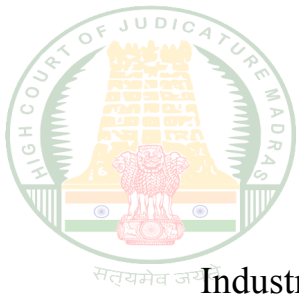
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15.The facts as established would show that there is no concluded contract exists in the present case. The auction alone was conducted on 04.08.2008 and no confirmation order has been passed by the liquidator by obtaining necessary approval from the Commissioner of Industries and Director of Industries and Commerce / Registrar of Co-operative Societies. That apart, under Section 7 of the Indian Contract Act, 1872, in order to convert a proposal into a promise, the acceptance must—

“(1) be absolute and unqualified;

(2) be expressed in some usual and reasonable manner, unless the proposal prescribes the manner in which it is to be accepted. If the proposal prescribes a manner in which it is to be accepted, and the acceptance is not made in such manner, the proposer may, within a reasonable time after the acceptance is communicated to him, insist that his proposal shall be accepted in the prescribed manner, and not otherwise; but if he fails to do so, he accepts the acceptance.

16.Therefore, right would accrued only if the contract is concluded. Admittedly, in the present case, tender auction was conducted but not confirmed and subsequently, cancelled, pursuant to the directions issued by the Government and the Commissioner of Industries and Director of

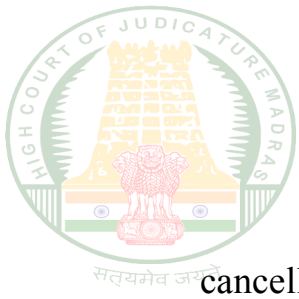


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Industries and Commerce to the official liquidator. The powers of the liquidator to cancel the auction is well found in the tender and auction terms and conditions.

17.Clause 11 & 12 of the Tender notification provides that prior approval of the Commissioner of Industries and Director of Industries and Commerce is required for confirming the tender. Clause 12 indicates that the official liquidator shall have full power to cancel or postpone the auction. The power conferred is absolute in nature and in the present case, it was cancelled pursuant to an administrative decision taken by the Government to utilize the land for public purposes and to develop industries through SIDCO. Thus, the reason cannot be termed as arbitrary but in the public interest. Public interest will always prevail over the private interest and in the present case, the subject land belongs to a co-operative society, which is falling under the administrative control of the Registrar /the Commissioner of Industries and Director of Industries and Commerce. The official liquidator is a Government authority and under these circumstances, the decision of the Government and the Commissioner to cancel the auction cannot be termed as arbitrary. The



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cancellation of tender-cum-auction is within the powers conferred to the official liquidator under clause 12 of the terms and conditions stipulated in the tender notification.

18.Beyond that Section 181 of the Tamil Nadu Co-operative Societies Act provides Power to the Registrar to give directions in the public interest, etc.

Sub-section-(1) in unequivocal terms reiterate that where the Registrar is satisfied that in the public interest or for the purpose of securing proper implementation of co-operative production and other development programmes approved or undertaken by the Government or to secure the proper management of the business of any class of registered societies generally, or for preventing the affairs of any registered society being conducted in a manner detrimental to the interests of the members, or of the depositors or the creditors thereof, it is necessary to issue directions to any' class of registered societies generally or to any-registered society or registered societies in particular, he may, by order issue directions to them, from time to time, and all registered societies or the registered society concerned, as the case may be, shall be bound to comply with such directions.

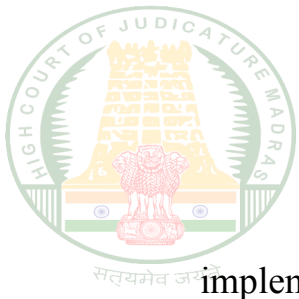


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19. In the context of the above provision, the additional affidavit filed by the appellant would indicate that the land of Auto Mobile Workshop Owners Service Industrial Co-operative Society Limited, Chennai (under liquidation) has been intended for establishing a Convention Centre for MSME Department and the detailed project report is under preparation as directed by the first appellant, as it is situated in the prime location of Korattur Village, Ambattur Taluk extending 1.11 ½ acres, in order to facilitate development of MSME's in Tamil Nadu. Necessary detailed project report (DPR) is under preparation by Industrial and Technical Consultancy Organization of Tamil Nadu Limited, popularly known as ITCOT Ltd., Chennai.

20. The respondent has not established any right for the purpose of securing the relief. Mere participation in the auction would not confer any right for granting the relief as such sought for in the writ petition. Cancelling the tender is an absolute power conferred under Clause 12 of the notification. In the present case, the auction was cancelled pursuant to the administrative decision taken by the Government, which was



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implemented by the Commissioner of Industries and Director of Industries and Commerce through the official liquidator. Thus, this Court does not find any infirmity in respect of the administrative decision taken.

21.Since the respondent has not established even a semblance of legal right except his participation in the public auction, the relief granted by the writ Court is not in consonance with the provisions of the Tamil Nadu Co-operative Societies Act and the terms and conditions stipulated in the auction notification.

22.The learned Additional Advocate General, on instructions, would submit that the EMD and security amount paid by the respondent is invested under a fixed deposit scheme in the Tamil Nadu Industrial Co-operative Bank Ltd.,. The file produced before this Court would reveal that the said amount paid by the respondent has been deposited in the interest bearing scheme in THAICO. Therefore, the appellants are directed to re-pay the principle amount and the interest accrued thereon to the respondent within a period of two weeks from the date of receipt of a copy of this order.



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23. Consequently, the writ order in W.P.No.15075 of 2010 dated 13.02.2023 is set aside. The writ appeal stands allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.J) (C.S.N.J)
10.09.2025

Index : Yes/No
Internet : Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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