

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-06-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 13954 of 2021

AND

WMP NO. 14823 OF 2021, 18380 OF 2021, 28929 OF 2022, 14824 OF 2021 and 14825 OF 2021

1. M/s.SAS Cityscapes Pvt.Ltd
Rep by its Managing Director
Mr.Meenakshi Sundaram,
Flat No.4, 1st Floor, New No.42
(Old No.38), Revathy
Apartments, Moosa street,
T.Nagar, Chennai- 600 017.

Petitioner(s)

Vs

1. The Securities and Exchange
Board of India (SEBI)
Rep by its Recovery Officer and
Deputy General Manager,
Overseas Towers, 7th Floor,
756- L, Anna Salai,
Chennai- 600 002.

2.M/s.Asurre Agrowtech Ltd
Rep By Its Managing Director
Mr.S.Thangappalam, 1/90,
Pillayar Koil Street,
Masinayakanpatti (PO),
Salem - 636 103.

Respondent(s)

**PRAYER**

Writ petition filed under Article 226 of the Constitution of India for the issue of Certiorarified Mandamus to call for the records of the proceedings in Impugned Order No. SRO/ RECOVERY/ 2021- 2022/ 01 dated 28.5.2021 passed by the 1st Respondent and quash the same as Arbitrary and illegal and devoid of merits in so far as the properties comprised in survey No. 1/7D in No.59, Kottachedu Village, Maramangalam Village and Panchayat, Yercaud Taluk, Sub Registrar Office of Yercaud already purchased by the petitioner company vide Doc. No.63/2019 (Book I) and Doc No.64/2019 (book I) registered i n the sub - Registrar office of Yercaud and sale Agreements Registered thereof vide Doc No.108/ 2019 (book I), Doc.No.109/2019 (Book I), Doc No. 110/2019 (Book I), and Doc No.111/ 2019 (Book I), registered in the sub -Registrar Office of Yercaud , and direct the 1st Respondent to release the properties purchased by the petitioner company and sale agreements registered thereof from the proceedings initiated by the 1st respondent against the 2nd respondent and all acts done in furtherance thereof and pass orders.

For Petitioner(s): R.Prem Raja Kumari
For M/s. C. Prasanna Venkatesh
Respondent(s): for R1

ORDER

This writ petition has been filed challenging the order passed by the 1st respondent in SRO/Recovery/2021-2022/01 dated 28.05.2021 and for a consequential direction to release the properties



purchased by the petitioner company and to permit the petitioner to register the documents submitted for registration before the concerned Sub Registrar office.

2. The case of the petitioner is that they purchased the subject property through a registered sale deed dated 01.02.2019 registered as document No.108 of 2019. The petitioner claims to be a bonafide purchaser for value. The petitioner also entered into a sale agreement dated 18.02.2019 with the 2nd respondent and the same was registered as document Nos.108 to 111 of 2019.

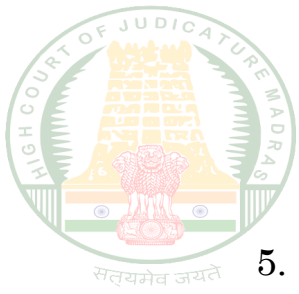
3. On 14.05.2019, a recovery certificate was issued by the 1st respondent against the 2nd respondent attaching all those properties purchased by the petitioner. Thereafter, a show cause notice dated 04.10.2019 came to be issued by the 1st respondent to the petitioner calling upon the petitioner to give the explanation regarding the transactions that took place with the 2nd respondent. The petitioner also gave a reply to the show cause notice dated 18.11.2019. Thereafter, hearing notice was issued by the 1st respondent to the petitioner and the petitioner submitted the relevant documents and reply for the hearing notice before the 1st respondent. Even before the



conclusion of the proceedings, notice of sale for e-auction was issued by the 1st respondent and the same was put to challenge in WP No.11057 of 2020 by the petitioner. This writ petition came up for hearing on 05.01.2021 and it was disposed of in the following terms :-

7. For the foregoing reasons, this Court directs the 1st respondent to pass final orders, pursuant to the impugned show cause notice dated 04.10.2019 issued under Section 28-A of SEBI Act after affording sufficient opportunity to the petitioner to place all documentary evidence in support of their case including granting them the right of personal hearing on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order. Till final orders are passed, status quo in respect of the petitioner's property measuring an extent of 4 acres and 60 cents comprised Survey No.1/7D (sub divided) as Survey No.1/7D1) comprised in No.59, Kottachedu Village, Maramangalam Village Panchayat, Yercaud Taluk, shall be maintained.

4. Pursuant to the above order, hearing notice was issued by the 1st respondent and proceedings were conducted and ultimately, the impugned order dated 28.05.2021 came to be passed by the 1st respondent. The same has been put to challenge in the present writ petition.



5. The first respondent has filed a detailed counter affidavit.

The 1st respondent has questioned the transaction that took place between the petitioner and the 2nd respondent and according to the 1st respondent, the petitioner is not a bonafide purchaser and that the sale deeds and the sale agreements are sham and nominal documents and such a transaction was entered into only to frustrate the SEBI from recovering the dues from the 2nd respondent. The 1st respondent has also taken a stand that the alienation itself is void in view of the fact that service of notice of demand was issued to the 2nd respondent on 10.09.2018 and it was received on 12.09.2018 and 14.09.2018 respectively and thereafter, the 2nd respondent has executed the sale deeds and the sale agreements. The order of attachment was passed on 14.05.2019 and Rule 16(1) r/w Rule 51 of the II Schedule of the Income Tax Act, 1961, makes it clear that any immovable property that is attached under the schedule shall relate back and take effect from the date of which the notice to pay the arrears was issued and served upon the defaulter. Therefore, since the attachment takes effect from 10.09.2018, the 1st respondent has taken a stand that the transaction itself is void. The 1st respondent has also questioned the maintainability of this writ petition on the ground that there is an

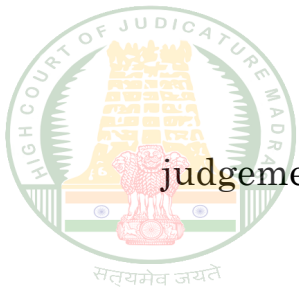


alternative remedy available to the petitioner to file an appeal. In view of the same, the 1st respondent has sought for the dismissal of this writ petition.

6. Heard R.Prem Raja Kumari, learned counsel for the petitioner and M/s.C.Prasanna Venkatesh, learned counsel for 1st respondent.

7. The first issue to be gone into is regarding the preliminary objection that was raised by the learned counsel appearing on behalf of the SEBI on the maintainability of this writ petition on the ground that the petitioner has an efficacious alternative remedy under Section 15T of the Securities and Exchange Board of India Act 1992 (hereinafter referred to as the “SEBI Act”).

8. In reply to the preliminary objection raised by the learned counsel for the 1st respondent, the learned counsel for the petitioner submitted that inspite of the availability of an alternative remedy by way of appeal, this Court can always exercise its power and jurisdiction under Article 226 of Constitution of India. To substantiate the same, the learned counsel relied upon some



judgements.

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9. The availability of an alternative remedy is only a self imposed restriction and it is not an absolute bar for the Writ Court to exercise its jurisdiction under Article 226 of the Constitution of India. The High Court normally exercises its jurisdiction under Article 226 of Constitution of India inspite of the availability of the alternative remedy only in cases where the order suffers from violation of Principles of natural justice or the authority who has passed the order has done so without any jurisdiction or in excess of jurisdiction available. This Court also exercises writ jurisdiction where the order suffers from nullity or can be considered as *non-est* in the eye of law.

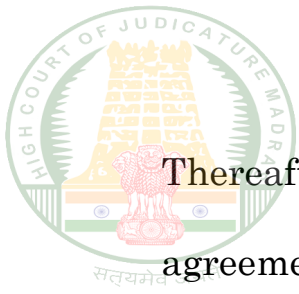
10. The case in hand does not fall within any of the above requirements in order to enable this Court to exercise its jurisdiction under Article 226 of Constitution of India, inspite of the availability of the alternative remedy.

11. The 1st respondent while passing the order has given opportunity to the petitioner and has considered the stand taken by the petitioner. Therefore, the order does not suffer from violation of



Principles of natural justice. It is nobody's case that the 1st respondent lacks jurisdiction to pass such an order and therefore, the

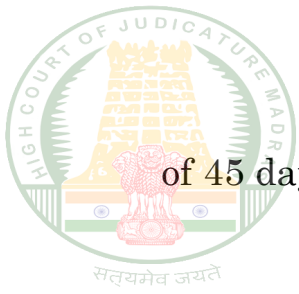
order does not suffer from any lack of jurisdiction or excess of jurisdiction exercised by the 1st respondent. The order cannot be held to be nullity or *non-est* since the 1st respondent is vested with the jurisdiction and the 1st respondent has given sufficient reasons as to why the stand taken by the petitioner is unsustainable. If the same is to be tested, the Court has to necessarily go into the finer details of the case which is within the realm of an Appellate Authority. The 1st respondent has come to a conclusion that the sale deeds and the sale agreements entered into between the petitioner and the 2nd respondent are sham and nominal transactions and it was done only to frustrate the recovery proceedings initiated by SEBI. The 1st respondent has come to a conclusion that the petitioner is not a bonafide purchaser and to arrive at such a conclusion, various reasons have been assigned by the 1st respondent. Apart from that, the 1st respondent has reached a conclusion that the sale deeds and the sale agreements are void in terms of Rule 16(1) r/w Rule 51 of the II Schedule of the Income Tax Act. This conclusion was arrived at since notice dated 10.09.2018 was sent to the 2nd respondent for recovery of dues and it was received on 12.09.2018 and 14.09.2018.



Thereafter, the sale deeds were executed on 01.02.2019 and the sale agreements were executed on 18.02.2019. The recovery certificate was issued by the 1st respondent against the 2nd respondent attaching the properties on 14.05.2019. In terms of Rule 51 r/w Rule 16(i), the order of attachment will relate back and take effect from the date on which the notice to pay the arrears was issued under the schedule to the defaulter.

12. If all the above reasoning given by the 1st respondent is to be appreciated by this Court, this Court will have to necessarily go into the facts of the case and by adopting such a course, this Court will virtually be acting as an Appellate Authority.

13. In the light of the above discussion, without going into the merits of the case, and on the ground of availability of an effective and efficacious alternative remedy to the petitioner, this Court is not inclined to exercise its jurisdiction under Article 226 of Constitution of India. Section 15 (T) (1) (a) of the SEBI Act, 1992 provides for an appeal to the Securities Appellate Tribunal and such appeal has to be filed within a period of 45 days and the Tribunal has also been given the power to condone the delay, if any appeal is filed after the expiry



of 45 days, if sufficient cause is shown for the delay.

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14. The writ petition is disposed of in the following terms:-

(a) The petitioner is permitted to file an appeal under Section 15T of the SEBI Act before the Securities Appellate Tribunal within a period of two weeks from the date of receipt of the copy of this order.

(b) The Securities Appellate Tribunal shall take into account the fact that the writ petition was pending in this Court from 2021 till date and hence, that will be sufficient cause for condoning the delay in filing the appeal. In other words, the Tribunal shall deal with the appeal on merits and it shall not be rejected on the ground of delay.

(c) The petitioner had the advantage of an interim order right through the pendency of this writ petition. Hence, the said interim protection shall continue till the Tribunal disposes of the Appeal filed by the petitioner within the time frame fixed by this Court. and

(d) The Tribunal shall pass orders on its own merits and in accordance with law after affording opportunity to the



petitioner within a period of three months from the date
of receipt of the copy of this order.

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

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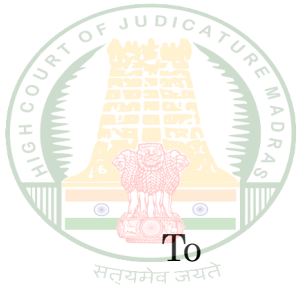
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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



To

WEB C.T.N

1.The Securities and Exchange
Board of India (SEBI)
Rep by its Recovery Officer and
Deputy General Manager,
Overseas Towers, 7th Floor, 756-
L,Anna Salai,Chennai- 600 002.

2.M/s.Asurre Agrowtech Ltd
Rep By Its Managing Director
Mr.s.Thangappalam, 1/90, Pillayar
Koil Streeet, Masinayakanpatti
(po),salem - 636 103.



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N.ANAND VENKATESH J.
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28929 OF 2022,WMP
NO. 14824 OF
2021,WMP NO. 14825
OF 2021**

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