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W.P.No.36454 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2025

CORAM :

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

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.36454 of 2024

&

W.M.P.Nos.39320 & 39322 of 2024

P.Nallarajan

.. Petitioner

Vs.

1. The Assistant Vice President  
DBS Bank India Limited  
(Erstwhile Lakshmi Vilas Bank)  
No.806, Anna Salai  
Chennai 600 002.
2. The Authorised Officer  
Asset Reconstruction Company (India) Ltd.  
No.1-E, 1<sup>st</sup> Floor  
Nos.560-562, Century Plaza  
Teynampet, Anna Salai  
Chennai 600 018.
3. T.Madasamy
4. M.Maheswaran
5. P.Sivakumar
6. P.Kavitha



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7. Umamaheswari  
8. S.R.Janakiraman

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus calling for the records relating to the e-auction notice dated 6.1.2024 and quash the same and forbear the 2<sup>nd</sup> respondent from taking physical possession of the petitioner's 1/6<sup>th</sup> legitimate share of the property measuring 53 Are, 70 Santhiar 04 Ma 01 Kuzhi 27/64 or 5370 sq.mtrs or 57.781 sq.ft. situated at Tirunallar Street, (Melaveli), Karaikal Town, Karaikal Municipality, Puducherry State, comprised in Block No.1, T.S.No.6, R.S.No.11/2 O.S.No.27, Extension 44R 40S, Patta No.626, (II) Ward F, Block 1, T.S.No.8, R.S.No.11/5, O.S.No.27, 27/1, 27/2, 27/3, 27/4, 28 extension 82R, Patta No.4050, except by following the due process of law against the petitioner.

For Petitioner : Mr.R.Kamaraj

For Respondents : Mrs.Anandha Gomathi  
for Respondents 1 & 2

Ms.S.Vijayadharani  
for Respondent-5



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**ORDER**

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

On 19.12.2024, an alternate Bench of this Court passed a conditional order and paragraph 3 thereof reads as under:

*“3. Since the dispute is only about the quantum of share in the property, which is brought for sale, the matter is adjourned to 06.01.2025. If the petitioner pays a sum of Rs.1.00 Crore (Rupees One Crore only) to show his bona fide, this Court will pass orders on the application of the borrower for re-scheduling or for accepting the one-time settlement proposal. The bank shall keep the amount in “no lien account”.”*

2. The amount of Rs.1.00 crore has not been deposited. Instead of depositing the amount, petitioner has taken a fixed deposit receipt for Rs.1.00 crore and the deposit is for a term of 45 days only. The fixed deposit beneficiary is one M.Maheswaran, who is respondent No.4 and counsel for petitioner, who is supported by counsel for respondent No.5 states that they have complied with the order of the Court. We disagree. Therefore, the status quo stands vacated.

3. Ms.Vijayadharani, who is not even petitioner, states that alternate



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Bench was moved because an order under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was passed sometime in December, 2024. That order has not even been challenged in this petition. This petition was filed in November, 2024. Therefore, without a petition, the Court has been misled in passing the order on 19.12.2024 citing urgency.

4. In ***KML Estates Private Limited v. Zarine D'Monte and others***<sup>1</sup>, a Division Bench of the Bombay High Court, after referring to the decisions of the Apex Court in *S.P. Chengalvaraya Naidu v. Jagannath*<sup>2</sup> and *Sciemed Overseas Inc. v. BOC India Ltd*<sup>3</sup>, held as under:

*“27. In our view, this appeal has to be allowed. In our opinion the said respondents, who are plaintiffs in the suit, should have come to the Court with clean hands. The observations of the Hon'ble Supreme Court in S.P. Chengalvaraya Naidu v. Jagannath (Dead) by LRS (Supra), that was relied upon by Mr. Dada, are relevant in this context. The Court observed:*

*‘The Courts of law are meant for imparting justice between the parties. **One who comes to the Court must come with clean hands** ..... We have no hesitation to say that a person whose case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation.’*

*28. The Apex Court and this Court have, on many occasions, stated that **if a party comes to the Court with unclean hands, should be dealt with very strongly and substantial costs also should be imposed on the party.***

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1 2023 SCC OnLine Bom 558

2 (1994) 1 SCC 1

3 (2016) 3 SCC 70



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***The conduct of such party intends to impede and prejudice the administration of justice. Judiciary is the bedrock and handmaid of orderly life and civilized society.*** In *Sciemed Overseas Inc. v. BOC India Ltd. (supra)*, the Apex Court has lamented about the unhealthy trend in filing of affidavits which are not truthful. Paragraph 2 of the said judgment reads as under:

*'2. A global search of cases pertaining to the filing of a false affidavit indicates that the number of such cases that are reported has shown an alarming increase in the last fifteen years as compared to the number of such cases prior to that. This is illustrative of the malaise that is slowly but surely creeping in. This 'trend' is certainly an unhealthy one that should be strongly discouraged, well before the filing of false affidavits gets to be treated as a routine and normal affair.'*

*[emphasis supplied]*

5. The Apex Court in ***Bilkis Yakub Rasool v. Union of India***<sup>4</sup>, after referring to a catena of decisions, held that the jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary and it is imperative that the petitioner approaching the writ court must come with clean hands and put forward all the facts before the Court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim.

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<sup>4</sup> (2024) 5 SCC 481



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6. In view of the above, the writ petition is dismissed. It is open to petitioner to challenge the order passed under Section 14 before the Debts Recovery Tribunal. We express no opinion. There shall be no order as to costs. Consequently, the interim applications also stand disposed.

(K.R.SHRIRAM, CJ)

(SENTHILKUMAR RAMAMOORTHY,J.)

08.01.2025

Index : Yes/No  
Neutral Citation : Yes/No  
kpl

To

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