

**(2014) 12 MAD CK 0332**

**Madras High Court**

**Case No:** Writ Appeal Nos. 1743 and 1744 of 2013 and M.P. No. 1 of 2013 in W.A. No. 1743 of 2013

G. Kudha Baksh

APPELLANT

Vs

The Tamil Nadu Industrial  
Investment Corporation Limited

RESPONDENT

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**Date of Decision:** Dec. 2, 2014

**Hon'ble Judges:** P.R. Shivakumar, J; N. Paul Vasantha Kumar, J

**Bench:** Division Bench

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**Judgement**

N. Paul Vasantha Kumar, J.

Heard Mr.S.Subbiah, learned counsel appearing for the appellant and Mr.K.Magesh, learned counsel appearing for the respondents 1 and 2 and Mr.P.B.Ramanujam, learned counsel appearing for the 3rd respondent.

2. These writ appeals are filed against the common order made in W.P.Nos. 22671 and 30474 of 2003 dated 03.4.2013.

3. W.P.No. 22671 of 2003 has been filed for issuance of writ of declaration to declare the sale made on 19.6.2002 by the respondents 1 and 2 pertaining to the land and the building in R.S.No. 150/3 to an extent of 70 cents in Vilangudi village, Madurai North Taluk, Madurai District in favour of the 3rd respondent and machineries lying in R.S.No. 150/3 in favour of the 4th respondents are void, illegal, unlawful, arbitrary and violation of all the norms for the sale of the property in public action. W.P.No. 30474 of 2003 has been filed to quash the order of the 2nd respondent dated 22.9.2003 and direct the respondents 1 and 2 to grant all the benefits to the appellant under the Modified Non Discretionary One Time Settlement Scheme for term loans disbursed up to Rs.5 lakhs within a time frame.

4. The case of the appellant before the learned single Judge was that he obtained a term loan from the respondents 1 and 2 for a sum of Rs.3.89 lakhs, out of the sanctioned loan of Rs.4.15 lakhs, for which he had executed a simple mortgage deed

mortgaging the premises including the factory in R.S.No. 150/3, however, due to several circumstances, he could not repay the same. Therefore, the respondents 1 and 2 have initiated proceedings against the appellant by invoking the provisions of State Financial Corporation Act, 1951. Aggrieved over the same, the appellant filed suit in O.S.No. 188 of 1991 before the District Munsif Court, Madurai and the same suit was dismissed. Subsequently, the appellant filed another suit in O.S.No. 467 of 1991 before the II Additional District Munsif Court, Madurai seeking for mandatory injunction. The appellant also filed O.S.No. 1392 of 1993 before the District Munsif Court, Madurai for declaration. The appellant's mother along with the children of his sister have filed O.S.No. 1136 of 1999 before the District Munsif Court, Madurai for declaration. The appellant's mother also filed W.P.No. 21642 of 2002 challenging the sale notice issued for conduct of public auction. In the meanwhile, the respondents 1 and 2 have formulated a Scheme as Non Discretionary One Time Settlement Scheme for term loans disbursed up to Rs.5 lakhs. On noticing the said Scheme, the appellant filed W.P.No. 30474 of 2003 to grant all the benefits to the appellant arising under the Modified Non Discretionary and Non Discretionary One Time Settlement Scheme for term loans disbursed up to Rs.5 lakhs, within a time frame.

5. The learned single Judge having noticed filing of the eight civil suits with regard to the same subject matter, disposed of the writ petitions with a direction to the trial Court to verify (1)Whether publication has been effect as per the procedure contemplate in the Civil Law? (2)As to when the interim stay granted by the High Court has been communicated to the respondents? (3)Whether auction has been conducted in the manner prescribed under law? and (4)As to when the sale was confirmed? Aggrieved over the same, the appellant has preferred these writ appeals.

6. It is seen from the records that the following six suits are filed by the appellant and the same are now pending:-

It is also seen from the records that all the six suits are filed on the very same subject matter and some of the suits are filed for declaration and injunction and O.S.No. 616 of 2003 was filed for redemption.

7. Since the subject matter in issue is already pending in six civil suits and all the six suits are clubbed together and posted for trial before the III Additional Sub-Court, Madurai, the learned single Judge was right in disposing of the writ petitions by giving direction to expedite and dispose of the suits by the trial Court.

8. As the suits are already pending on the very same subject matter, the writ appeals cannot be entertained and the same are dismissed by confirming the order of the learned single Judge. As the suits are pending for years together, the III Additional Sub Judge, Madurai is directed to dispose of the suits within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, M.P.No. 1 of

2013 is closed.