

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, COIMBATORE**

Present: **Tmt. G. VIJAYA, B.A., M.L., PGDCFS**  
Principal District Judge, Coimbatore.

Wednesday, this the 23<sup>rd</sup> day of October 2024

**E.A.No.1/2024**

**in**

**E.P.No.73/2005**

**in**

**A.P.No.85/1999**

M/s.Manipal Finance Corporation Ltd.,  
Manipal, represented by its Manager  
R.G.Prabhakar

... Petitioner/Decree holder

/vs/

1. M/s.Viprah Technologies Limited  
2. C.K.Ananth  
3. Sujatha Ananth

... Respondents/Respondents

This petition came before me for final hearing on 18-10-2024 in the presence of **M/s.K.N.Lakshminarayanan and Associates**, Advocates for the Petitioner/Decree holder, and of **Thiru.K.Marimuthu**, Advocate for the Respondents/Respondents and upon perusing the records and hearing the arguments of both side and having stood over for consideration till this day, this Court passed the following

**ORDER**

This petition has been filed by the Petitioner under Order XXI Rule 72 read with Section 151 of CPC seeking to permit the Petitioner's company to bid and purchase the property to set-off the dues incurred by the Respondents.

**2) Averments contained in the petition :-**

- i. The above EP was posted for sale of the property on 10-06-2024. However, due to high upset price at Rs.55,00,000/- fixed by this Court, there was no bidders and consequently the property was not sold. There were no bidders for sale as it was brought for sale more than 3 times.
- ii. More than Rs.57,25,557/- is due as on 23-08-2024 to the Petitioner company as per decree. Since the amount due to the company is more than the property value and that there were no bidders for the sale, their company is desires to purchase the property by way of bid and set-off the dues incurred by the Respondent.s
- iii. Unless the Petitioner company is permitted to bid and purchase the property to set-off the dues incurred by the Respondents, the Petitioner company will be put to great loss and much hardship.
- iv. Therefore the Petitioner company pray that this Court may be pleased to permit their company to bid and purchase the property to set-off the dues incurred by the Respondents and render justice.

**3. The gist of the counter statement filed by the Respondent No.2 and adopted by the Respondents 1 and 3:**

- i. The petition is not maintainable both in law and on facts of the case.
- ii. There is no document filed before this Court, that the Manager of the Madras office has been recognized to sworn their affidavit, i.e. he is not the authorized signatory of the Petitioner's Finance Corporation. Hence this affidavit and petition may not be taken on file.

iii. The Petitioner Finance Corporation burdened to prove that due to the high upset price of Rs. 55,00,000/- fixed by this Court and there was no bidders and consequently the property was not sold. The Petitioner is also bound to prove that no bidder for sale were present though it was brought more than 3 times. The Petitioner also bound to prove that a sum of Rs.57,25,557/- is due as on 23.8.2024 to the Petitioner's company as per the award. No calculation memo has been filed by the Petitioner to that effect along with this petition. Hence, the amount mentioned by the Petitioner that a sum of Rs.57,23,337/- is due is untrue and incorrect.

iv. The Petitioner is also burdened to prove that since the amount due to the Petitioner's company is more than the property value and hence there were no bidder for sale. Infact the property would fetch more than 2 crores and fifty lakh. If the properties auctioned for 55 lakh, then the 2<sup>nd</sup> Respondent will be put to serious loss and hardship. This Respondent due to ill health was not able to prefer revision as against the order passed by this Court in E.A.No.5/2023 and now he has chosen to prefer revision against the order passed in E.A.No.5/2023 for fixing the upset price to Rs.55 lakhs, which is very low.

v. The petitioner's late thought decision that their company desires to purchase the property for the value of 55 lakh by way of bid and set-off may not be taken into consideration.

vi. In their earlier negotiation with the petitioner's company, this Respondent was willing to settle the decree to the sum of Rs.10 lakh for which the Petitioner's

company is not desirable for the settlement and their aim is only to squat and grab the property from the hands of this Respondent.

vii. However the present petition to bid and set off is devoid of merits and it lacks its bonafides.

viii. The Petitioner has not properly complied with the provision of Order 21 Rule 72 CPC.

ix. Therefore this Respondent prays that this Court may be pleased to pass an order to dismiss the petition with compensatory cost and thus render justice.

**4. Point for consideration :**

Whether permission is to be granted to the Petitioner company to bid and purchase the property to set-off the dues incurred by the Respondents or not? is the point for consideration.

**Point :**

5. Heard both side and perused the relevant records. It is the case of the Petitioner company that, the above EP was posted for sale of the property on 10-06-2024. However, due to high upset price at Rs.55,00,000/- fixed by this Court, there was no bidders and consequently the property was not sold. There were no bidders for sale as it was brought for sale more than 3 times.

6. Further case of the Petitioner company that, more than Rs.57,25,557/- is due as on 23-08-2024 to the Petitioner company as per decree. Since the amount due to the company is more than the property value and that there were no bidders for the sale, their company desires to purchase the property by way of bid and set-off

the dues incurred by the Respondents. Unless the Petitioner company is permitted to bid and purchase the property to set-off the dues incurred by the Respondents, the Petitioner company will be put to great loss and much hardship. Therefore the Petitioner company pray that this Court may be pleased to permit their company to bid and purchase the property to set-off the dues incurred by the Respondents and render justice.

7. It is the case of the Respondents that, the petition is not maintainable both in law and on facts of the case. There is no document filed before this Court, that the Manager of the Madras office has been recognized to sworn their affidavit, i.e. he is not the authorized signatory of the Petitioner's Finance Corporation. Hence this affidavit and petition may not be taken on file. The Petitioner Finance Corporation burdened to prove that due to the high upset price of Rs. 55,00,000/- fixed by this Court and there was no bidders and consequently the property was not sold. The Petitioner is also bound to prove that no bidder for sale were present though it was brought more than 3 times. The Petitioner also bound to prove that a sum of Rs.57,25,557/- is due as on 23.8.2024 to the Petitioner's company as per the award. No calculation memo has been filed by the Petitioner to that effect along with this petition. Hence, the amount mentioned by the Petitioner that a sum of Rs.57,23,337/- is due is untrue and incorrect.

8. Further case of the Respondents is that, the Petitioner is also burdened to prove that since the amount due to the Petitioner's company is more than the property value and hence there were no bidder for sale. Infact the property would

fetch more than 2 crores and fifty lakh. If the properties auctioned for 55 lakh, then the 2<sup>nd</sup> Respondent will be put to serious loss and hardship. This Respondent due to ill health was not able to prefer revision as against the order passed by this Court in E.A.No.5/2023 and now he has chosen to prefer revision against the order passed in E.A.No.5/2023 for fixing the upset price to Rs.55 lakhs, which is very low.

**9.** Further case of the Respondents is that, the petitioner's late thought decision that their company desires to purchase the property for the value of 55 lakh by way of bid and set-off may not be taken into consideration. In their earlier negotiation with the petitioner's company, the Respondent was willing to settle the decree to the sum of Rs.10 lakh for which the Petitioner's company is not desirable for the settlement and their aim is only to squat and grab the property from the hands of the Respondent. However the present petition to bid and set off is devoid of merits and it lacks its bonafides. The Petitioner has not properly complied with the provision of Order 21 Rule 72 CPC.

**10.** This court has given its anxious consideration on the rival contentions of both the parties. On perusal of the records, it shows that, initially the upset price of the property brought for sale, was fixed at Rs.75,00,000/- on 05-12-2022. However sale was not effected as no bid no sale. Even though this Court's Ameen had valued the property at Rs.73,62,258/-, there was no response in the public auction which was held on 05-06-2023 for the said upset price. Another public auction is stated to have been held on 09-10-2023 at which also there was no response.

Thereafter, on petition, the upset price was reduced from Rs.75,00,000/- to Rs.60,00,000/-. Even thereafter sale was not effected as no bid and no sale on 18-06-2024. Hence now the Petitioner company has come forward with this petition stating that since there were no bidders for sale as it was brought for 2 times, hence they desire to purchase the property by way of bid to set-off the dues incurred by the Respondents. For which the Respondents have contended that the value of the property as on date is about more than Rs.2 crore and 50 lakh and the Respondents intended to prefer revision as against the order passed by this Court in E.A.No.5/2023 for fixing of the upset price to Rs.55 lakh which is very low. As already stated, the earlier sale amount fixed for this property had not resulted in any successful bid and now the Petitioner company is intended to participate in the bid. And though the Respondent vehemently opposed to permit the Petitioner to bid, however, he has not chosen to settle the amount to the Petitioner. Further, the Respondent has also not chosen to challenge the Arbitration award and now the Petitioner company is intended to participate in the bid and purchase the property to set-off the dues incurred by the Respondents and though the Respondents contended that they intended to prefer revision as against the order passed by this Court in E.A.No.5/2023, no particulars with regard to the appeal was disclosed by the Respondents. Therefore, taking into consideration of the above, this Court is inclined to allow the petition.

**In the result, the Petitioner company is permitted to bid and purchase the property to set-off the dues incurred by the Respondents.**

This order is dictated to the steno typist directly, typed by her in the system, corrected and pronounced by me in the open court, this the 23<sup>rd</sup> day of October 2024.

Sd/- G. VIJAYA  
PRINCIPAL DISTRICT JUDGE,  
COIMBATORE.

FAIR/DRAFT ORDER  
E.A.No.1/2024  
in  
E.P.No.73/2005  
in  
A.P.No.85/1999  
DATED : 23-10-2024  
PDJ, CBE.