



W.P.(MD) No.12765 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.06.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.12765 of 2023
and
W.M.P (MD) Nos.10760 and 10761 of 2023**

K.C.A.Chidambaram

... Petitioner

-VS-

1. The Manager/authorized Officer,
Indian Bank, Sattur Branch,
No.28, Old Trunk Road, Madurai Main Road,
Sattur, Virudhunagar District..

2. K.Vinayaki

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the 1st



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respondent's impugned sale notice dated 02.02.2023 and quash the same as illegal and forbearing the 1st respondent Bank, their men, agents proceeding further for sale of the petitioner's house property.

For Petitioner : Mr.M.Shakul Hameed

For Respondents : Mr.R.Pandivel
Standing Counsel for R1

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.

2. Considering the nature of the relief, notice to the private respondent is deemed unnecessary.

3. Learned counsel for the petitioner would make a very magnanimous offer to the effect that the petitioner is ready to pay the entire amount outstanding.



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4. Mr.R.Pandivel, learned Standing Counsel appearing for the first respondent – bank would submit that the sale has been held and the sale certificate has also been issued. He would also add that the sale certificate has been challenged before the Debts Recovery Tribunal in S.A.No.86 of 2023, The auction purchaser is also a party to the said proceedings. Therefore, according to the learned Standing Counsel, the writ petition itself is not maintainable and is an abuse of process of law.

5. We are inclined to agree with the submissions of the learned Standing Counsel appearing for the first respondent – bank. Once the SARFAESI Application has been filed before the Debts Recovery Tribunal challenging the sale certificate, it is open to the petitioner to take all defences open to the debtor before the Debts Recovery Tribunal. Invocation of jurisdiction under Article 226 of the Constitution of India in the said circumstances would amount to abuse of process of Court. Hence, we do not see any reason to entertain this writ petition. We leave it open to the petitioner to urge all contentions before the Debts Recovery Tribunal in the pending S.A.No.86 of 2023.



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6. Accordingly, the writ petition is disposed of. No costs.

Consequently, the connected miscellaneous petitions are closed.

[R.S.M., J.] [L.V.G., J.]

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NCC : No
Index : No
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