



WEB COPY



WP No.313 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2026

CORAM

THE HON'BLE MR.SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

WP No.313 of 2024

Dondelti Rami Reddy
Pondili Mandalam, Zuvaaleru,
Prakasam,
Andhra Pradesh - 523 240.

Petitioner

Vs

1. The Authorised Officer,
Union Bank Of India(erstwhile Andhra Bank),
Regional Office, No. 139, Prakasam Road, George
Town,Chennai - 600 001.

2.The Branch Manager,
Union Bank Of India(erstwhile Andhra Bank),
Regional Office, No. 139, Prakasam Road, George
Town, Chennai - 600 001.

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to refund the deposit amount of Rs. 42,00,000/-(Rupees Forty Two Lakhs Only) deposited on 10.03.2020 at the time of e-auction held on 10.03.2020 for the sale of the property bearing Door No.32, plot No.C-168, Balasubramaniam Salai, Periyar Nagar, Peravallur, Chennai - 600 082, comprised in S.No. 242, Block No. 32A measuring 2400 Sq.ft. with interest at the rate of 12 percentage per annum from the date of deposit till the date of realization within the time stipulated.

For Petitioner

Mr. V.Nallasenapathy
for Mr. R.Manickavel



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ORDER

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This writ petition filed under Article 226 of the Constitution of India seeks a Writ of Mandamus directing the respondents to refund the deposit amount deposited at the time of e-auction.

2. It is the case of the petitioner that he participated in the e-auction conducted on 10.03.2020, by the respondent Bank in respect of property bearing D.No.32, Plot No.C-168, Balasubramaniam Salai, Periyar Nagar, Peravallur Chennai 82 comprised in S.No.242, Block No.32A measuring 2400 sq.ft. and he was declared as the successful bidder. The petitioner deposited Rs.42,00,000/- (Rupees Forty Two Lakhs only) being 25% of the sale price. The petitioner was required to deposit Rs.1,26,00,000/- on or before 27.03.2020. However due to Covid pandemic and lockdown, his business activities became paralysed and he could not mobilize funds to make the balance amount. The petitioner sent letters dated 26.03.2020 and 31.03.2021, requesting for further time. But he did not get any response. Since the petitioner could not arrange for funds, he requested the bank to return the initial amount deposited by him. However, the bank did not return



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the amount and the petitioner was orally informed that the amount was forfeited. Seeking a direction to the respondents to return the amount, the present writ petition has been filed.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. Sub-rule (3) of Rule 9 of Security Interest (Enforcement) Rules, 2002 clearly worded that on every sale of immovable property, the purchaser shall immediately, i.e., on the same day or not later than next working day, as the case may be, pay a deposit of twenty-five percent of the amount of the sale price, which is inclusive of earnest money deposited, if any, to the authorised officer conducting the sale and in default of such deposit, the property shall be sold again. Sub-rule (4) speaks about payment of balance amount within the stipulated time and sub-rule (5) empowers the Authorised Officer to forfeit the deposit made under Rule 9(3), if the balance sale consideration is not paid within the time stipulated in Rule 9(4).



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5. In *Authorised Officer, Central Bank of India v.*

*Shanmugavelu*¹, the Apex Court held that forfeited amount cannot be refunded. In paragraph 111, the Apex Court held thus:

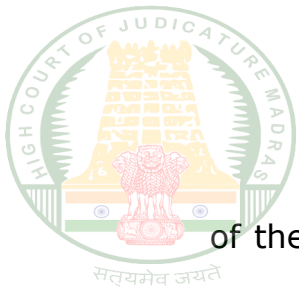
"111. The consequence of forfeiture of 25% of the deposit under Rule 9(5) of the SARFAESI Rules is a legal consequence that has been statutorily provided in the event of default in payment of the balance amount. The consequence envisaged under Rule 9(5) follows irrespective of whether a subsequent sale takes place at a higher price or not, and this forfeiture is not subject to any recovery already made or to the extent of the debt owed. In such cases, no extent of equity can either substitute or dilute the statutory consequence of forfeiture of 25% of deposit under Rule 9(5) of the SARFAESI Rules."

6. Thus, it is clear that when relevant rule permits forfeiture of 25% of the sale consideration in case of non-payment of balance sale consideration within the time stipulated, that too, after grant of sufficient time, the petitioner has no right to seek refund of 25% of the sale consideration deposited by him.

7. Learned counsel for the petitioner relied on a judgment of the Apex court in the case of *Mohammed Shhariq vs. Punjab National Bank and others*², wherein the Supreme Court had ordered refund of 25%

¹2024 INSC 80

²CDJ 2023 SC 324



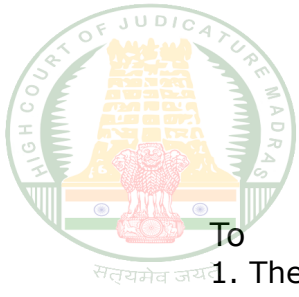
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of the amount deposited on the ground that the appellant therein had come with bona fide defence that he was never informed on the date when the auction was held or day thereafter that the substantive proceedings are pending before the DRT instituted at the instance of the borrower. The proceedings pending before the Debts Recovery Tribunal was not disclosed. Therefore, such an order came to be passed. The facts of the present case are completely different. In the case at hand, non-payment was not due to pending litigation. Petitioner pleads that due to covid pandemic his business activities were paralysed. *Mohammed Shariq* (supra) is thus, distinguishable on facts. That apart, the judgment in *Shanmugavelu* (supra) has been passed by a Three-Judge Bench of the Supreme Court and directly answers the issue raised in this writ petition.

8. In the result, the writ petition fails and the same is dismissed.
There will be no order as to costs.

(SUSHRUT ARVIND DHARMADHIKARI, C.J.) (G.ARUL MURUGAN, J.)
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Index : Yes/No
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