

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.19196 of 2015
and
M.P.Nos.1 and 2 of 2015

U.Srivilas

...Petitioner

Vs.

1. The Recovery Officer,
Debt Recovery Tribunal No.III,
Chennai-600 002.
2. City Union Bank,
rep by its Manager,
Door No.39, Neela South Street,
Nagapattinam.
3. Freddy Homi Pavri
4. Indian Overseas Bank,
rep by its Manager,
Spenser Plaza Branch,
Chennai-2.

...Respondents

The Writ Petition is filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records and to quash the impugned auction sale notice dated 14.5.2015 in DRC No.194/2008 issued by the first respondent and further direct the second respondent to receive a sum of Rs,1,00,336.50/- and close the entire issue relating to the loan account of the petitioner thereby closing DRC No.194/2008.

For petitioner : Mrs.Sudarshanasundar
for Mr.M.V.Venkateshan

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

Questioning the legality and validity of the auction sale notice dated 14.5.2015, the petitioner has come up with this petition, seeking for a direction to the second respondent to accept a sum of Rs.1,00,336.50 and close the entire case relating to the loan account of the petitioner, thereby closing the DRC case, being DRC No.194 of 2008.

2 The petitioner along with his mother and third respondent secured initial loan of Rs.8,90,000/- in August, 1994, thereafter, Rs.15 lakhs in April, 1995, totalling Rs.23,90,000/- from the second respondent. The loan amount was not paid and as such, the scheduled land, as stated in the auction notice, was declared as non performing asset. The second respondent bank filed an original application, being O.A.No.436 of 1997 on the file of the Debts Recovery Tribunal-II, Chennai for recovery of the loan amount. The said application was transferred to another tribunal. According to the petitioner, the total sum of Rs.27,04,413/- has already been paid. In the pending case in DRC No.194 of 2008, calling upon the petitioner and others, a notice was issued on 22.4.2013 to pay dues of Rs.29,25,625/-. Thereafter, in default, the scheduled property was put on auction sale. Accordingly, a notice was issued on 31.5.2013.

3 It appears that auction could not take place. Thereafter, one more auction sale notice was issued on 10.11.2014. The petitioner deposited some moneys, but the balance dues to the tune of Rs.12,69,541/- remained unpaid. Accordingly, one more impugned auction sale notice dated 14.5.2015 was issued, whereunder the date fixed for inspection of the property was stated to be 21.6.2015. At this stage, the petitioner has come up with the instant petition on the ground that the auction may be stayed, enabling the petitioner to pay the entire dues.

4 On perusal of the documents, we found that the Debts Recovery Tribunal-III, Chennai, where DRC No.194 of 2008 is pending consideration, in I.A.No.766 of 2014 filed by the petitioner for valuation of the property, passed the following order :

"6.To meet the ends of justice and to ensure a proper sale it would be appropriate if the following order is passed:-

(a)The e-auction sale scheduled for 07/1/2015 is hereby cancelled and the EMD amounts received are hereby returned to the bidders.

(b)A fresh auction shall be held on 10/4/2015 for

which appropriate sale notice will be issued separately.

(c) The petitioner will be at liberty to settle the entire dues as undertaken on or before 31/3/2015. In the event of failure, the auction will be held as scheduled and necessary orders will be passed in accordance with law.

(d) The petitioner is further directed to deposit Rs.19,580/- within a week from today, with the undersigned towards balance amount of valuation expenses.

(e) The cost of publication charges etc incurred by the applicant bank for the above sale will be borne by the petitioner."

5 The petitioner exchanged several communications for further clarification with the bank, which did not yield any result. Lastly, by notice dated 7.4.2015, the petitioner was further given a notice of 15 days time from the date of receipt of the notice for settling the DRC amount of Rs.12,69,541/-. The petitioner again failed to comply with the order. Without questioning the legality of the earlier notice, the petitioner has come to challenge the validity of the auction sale notice dated 14.5.2015.

6 We have examined the facts from all angles. Needless to state that the outstanding amount is due and payable for the last several years. The petitioner was given opportunity time and again, as stated herein-above. The auction of sale was cancelled to accommodate the petitioner for the purpose of settling the dues by depositing the money. The petitioner has again come up with this petition to question the legality of auction sale notice, which cannot be held as invalid on any ground whatsoever. Without expressing any opinion on the merits of the case, we are not inclined to entertain this petition, at this stage. Thus, this writ petition is dismissed, however liberty is reserved to the petitioner to work out his remedy in accordance with law, if so advised and as permissible under law. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Recovery Officer,
Debt Recovery Tribunal No.III,
Chennai-600 002.

2. The Manager,
City Union Bank,
Door No.39, Neela South Street,
Nagapattinam.

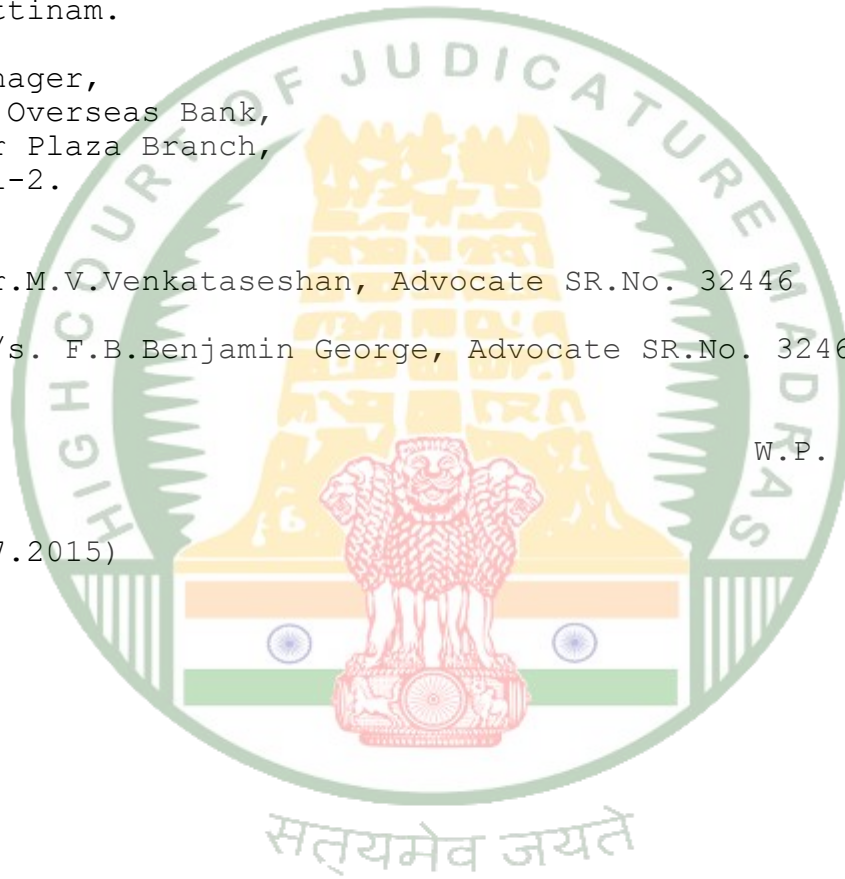
3. The Manager,
Indian Overseas Bank,
Spenser Plaza Branch,
Chennai-2.

1 CC to Mr.M.V.Venkataseshan, Advocate SR.No. 32446

1 CC to M/s. F.B.Benjamin George, Advocate SR.No. 32461

W.P. No.19196 of 2015

RSI (CO)
PSI (13.07.2015)



WEB COPY