

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 28.8.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.26990 of 2015

P.K.Jayaraman

... petitioner

versus

- 1 The Chief Manager cum
Authorised Officer Bank of Maharashtra No.4
Sivagnanam Road T.Nagar Chennai-17
- 2 The Chief Manager
Bank of Maharashtra Coimbatore Branch
Rangai Gownder Street Coimbatore 641 018
- 3 K.M.Manoharan
4. J.Srinivasan respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorari call for the records relevant to the order in tender cum e-auction sale notice dated 24.7.2015 issued by the 1st respondent and quash the same as illegal improper arbitrary and against the natural justice and rule of law.

For petitioner : Mr.B.Sundara Pandian

सत्यमेव जयते
O R D E R
(made by K.K.SASIDHARAN, J.)

The challenge in this Writ Petition is to the auction notice dated 24 July 2015 whereby and whereunder, the Authorized Officer, Bank of Maharashtra, proposed to auction the secured asset on 1 September 2015.

2. Heard the learned counsel for the petitioner.

3. According to the petitioner, his son, the 4th respondent herein, stood as Guarantor, for sanctioning loan to the 3rd respondent. The subject property was given as guarantee, after executing a fraudulent deed of partition. It was only when the

officials of the Bank inspected the property, after issuing sale notice, the petitioner came to know the execution of mortgage deed and the initiation of proceedings under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act. The petitioner is therefore before this Court.

4. The petitioner is having a statutory remedy by approaching the Debts Recovery Tribunal. There is no question of entertaining a Writ Petition in a matter of this nature. We are therefore of the view that the petitioner must avail the statutory remedy.

5. The petitioner is given liberty to move the Debts Recovery Tribunal for appropriate relief on or before 3 September 2015. It is open to the first respondent to proceed with the auction, as scheduled. However, confirmation of sale shall not be made till 9 September 2015.

6. The Debts Recovery Tribunal is directed to entertain the application filed by the petitioner and pass appropriate orders on merits as expeditiously as possible and in any case on or before 7 September 2015.

7. The Writ Petition is disposed of with the above direction. No costs. Consequently, M.P.Nos.1 to 3 of 2015 are closed.

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s/d-

Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

To

- 1 The Chief Manager cum
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- 2 The Chief Manager
Bank of Maharashtra Coimbatore Branch
Rangai Gownder Street Coimbatore 641 018

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