



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:17.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

AND

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD).No.14519 of 2015

and

M.P(MD)Nos.1 & 2 of 2015

P.Kanagasabavathy

..Petitioner

Vs.

1.The Authorized Officer,
IDBI Bank ltd.,
MSME, 13C, Building,
First Floor, No.2, West Marret Street,
Opp.to Railway Station,
Madurai-625 001.

2.P.Selva Suganthi

3.P.Selva Sumathi

..Respondents

Writ Petition is filed Under Article 226 of Constitution of India, praying to writ of Certiorari, calling for the records pursuant to the impugned notice for sale dated 24.01.2015 and the consequential impugned notice for sale, dated 27.02.2015 on the file of the first respondent herein and quash the same as illegal.

For Petitioner : Mr.S.Bharathy Kannan

O R D E R

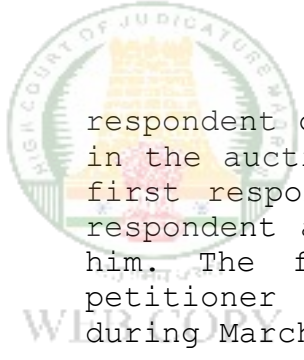
[Order of the Court was made by V.M.VELUMANI, J]

The petitioner has filed the writ petition challenging the Paper Publication, dated 24.01.2015, for auctioning the property belonging to the second respondent and consequential sale notice issued by the first respondent, dated 27.02.2015.

2.According to the petitioner, the second respondent is the owner of the property measuring 24.25 cents, with residential building, in S.F.No.Old No.3136, Resurvey No.T-6-28/11 and situated in Door No.2/1C, Kamarajar Salai, Moovendar Nagar, Neendakari Village, Koothangadu, Agastheeswaram Taluk, Rajakkamangalam SRO, Kanyakumari District. The second respondent entered into an agreement of sale on 07.07.2014 to sell the said property to the petitioner, for a total sale consideration of Rs.1,90,00,000/-. The petitioner also paid Rs.20,00,000/- as Advance to the second respondent. The second respondent agreed to discharge the charge created in favour of the first respondent Bank. Contrary to the said agreement, the second respondent did not discharge the charge created in favour of the first respondent and failed to execute the sale deed in favour of the petitioner even though the petitioner was always ready and willing to perform his part of contract.

<https://hcservices.ecourts.gov.in/hcservices/>

3.In the meanwhile, the first respondent brought the property for sale, as per the impugned publication and sale notice. The first



respondent did not give appropriate opportunity to persons to participate in the auction. The petitioner on 20.04.2015 sent a representation to the first respondent that he would pay the entire amounts due to the first respondent and requested the first respondent to release the property to him. The first respondent by reply, dated 27.04.2015, informed the petitioner that procedure with regard to auction had been completed during March, 2015 itself.

4. The petitioner contacted the second respondent to execute the sale deed in his favour. The second respondent informed the petitioner that property was sold without her knowledge and therefore, she cannot execute the sale deed in his favour. The petitioner, on obtaining encumbrance certificate, came to know that the respondents 2 and 3 in collusion with first respondent have purchased the property.

5. Under these circumstances, the petitioner has come out with the present writ petition.

6. The learned counsel for the petitioner reiterated the averments made in the affidavit referred to above and prayed for setting aside the paper publication, dated 24.01.2015 and consequential sale notice issued by the first respondent, dated 27.02.2015.

7. We have heard the learned counsel appearing for the petitioner and perused the materials on record.

8. From the materials on record, it is seen that the first respondent has not violated any legal provisions in conducting the Auction Sale and the sale conducted by the first respondent is as per Law. Further, entire auction procedure was completed in March, 2015 itself. The petitioner did not take any steps before auction procedure could complete and sale deed executed in favour of auction purchaser. The petitioner is only an agreement holder. He has not acquired any title in respect of the property, which was sold by the first respondent by Public Auction, after issuing impugned publication and sale notice. The first respondent has invoked provisions of SARFAESI Act. In the said circumstances, the present writ petition is not maintainable and is devoid of merits.

9. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar(Crl.side)

/True Copy/

Sub Assistant Registrar

To

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