

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.6.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.39256 of 2015
and
M.P.No.1 of 2015

Shri. R.Vasan

Petitioner

Versus

1 The Authorised Officer
State Bank of India
T.Nagar Branch Panagal Park
2A Prakasam Road T.Nagar
Chennai-600 017.

2 Asset Reconstruction Company (India) Ltd.
The Ruby 10th Floor
29 Senapati Bapat Marg
Dadar (West) Mumbai-400028.

3 Shri. K.Arumugam

4 Shri. Shahnawas

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to the sale by the first respondent culminating in the Sale Certificate dated 20.07.2015 in favour of the third respondent and registered as Doc.No.9286 of 2015 Joint Sub Registrar-I Saidapet and quash the same with a direction to forfeit all the money paid by the third respondent and appropriate it towards the debt.

For petitioner : Mr.V.Bhiman for
M/s.Sampathkumar and Associates

For R1 : Mr.S.Sethuraman
For R2 : Mr.K.Balamurali for
M/s.Shivakumar & Suresh

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties for some time.

2. The writ petition has been filed seeking issuance of a writ of certiorarified mandamus calling for the records relating to the sale by the first respondent culminating in the Sale Certificate dated 20.07.2015 in favour of the third respondent and registered as Doc.No.9286 of 2015 Joint Sub Registrar-I Saidapet and quash the same with a direction to forfeit all the money paid by the third respondent and appropriate it towards the debt. 3. The case of the petitioner is that he stood as guarantor for the loan availed by M/s.Bharat International Manufacturing and Trading Private Limited and the consequent debt to the tune of Rs.3,69,89,902/- and met with the SARFAESI proceedings initiated by the first respondent and thereby his properties were subjected to e-auction. His further case is that sale certificate dated 20.7.2015 was issued to the third respondent, being the successful bidder and the first respondent entertains payments from the third respondent in piecemeal even after the time stipulated for payment, in gross violation of the rules and seeks for setting aside the sale certificate issued in favour of the third respondent.

4. It appears that the amount due is to the tune of four crore and odd. When the matter came up before the Debts Recovery Tribunal, the property was brought for e-auction and there was an order passed by the Debts Recovery Tribunal directing the petitioner to pay a sum of Rupees ten lakhs as court fee. Instead, the petitioner is shown to have paid only Rs.37,755/- and instead of paying the said amount, the petitioner is before this court, raising a ground that the appeal forum is not functioning at Chennai.

5. We do not find any illegality in the impugned order passed directing the petitioner to deposit a sum of Rupees ten lakhs as court fee. Instead of complying with the requirement to challenge the order of e-auction, on the ground of illegality, the guarantor is before this court. There is no scope for interference with the impugned order passed at the threshold of the SARFAESI proceedings especially when it is for want of court fee. Therefore, it is left open to the petitioner

to proceed in accordance with law. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

ssk.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To:

1 The Authorised Officer
State Bank of India
T.Nagar Branch Panagal Park
2A Prakasam Road T.Nagar
Chennai-600 017.

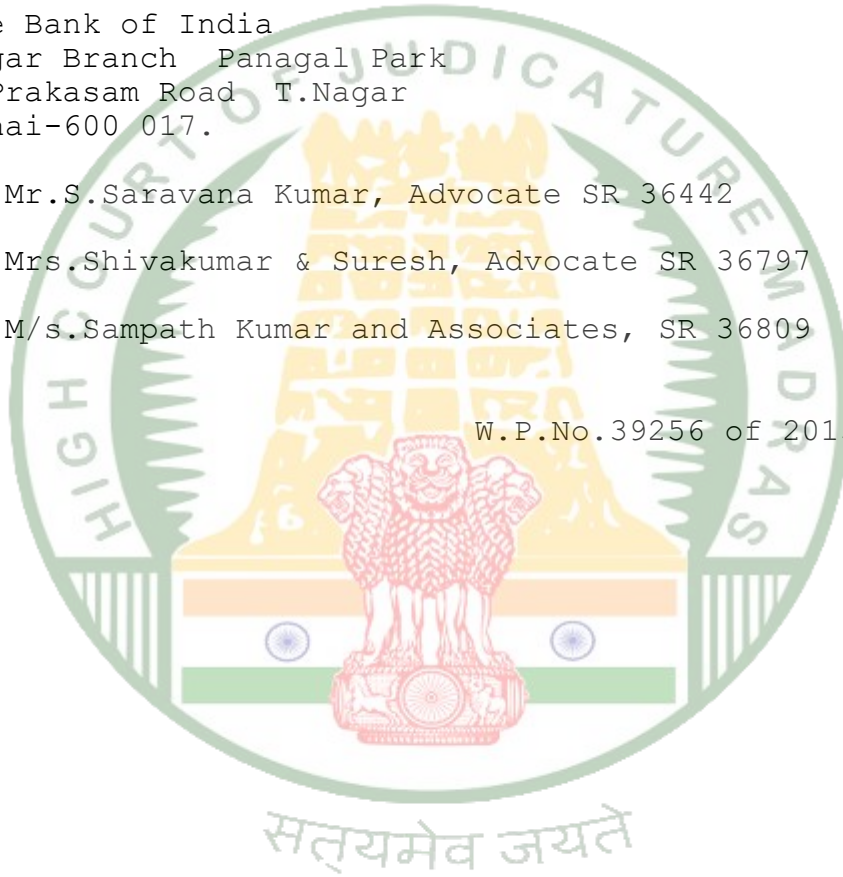
+ 1 cc to Mr.S.Saravana Kumar, Advocate SR 36442

+ 1 cc to Mrs.Shivakumar & Suresh, Advocate SR 36797

+ 1 cc to M/s.Sampath Kumar and Associates, SR 36809

lrs(co)
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