

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2016

CORAM

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

W.P. No.8025 of 2016  
and  
W.M.P.No.7129 of 2016

O.R.Mohana Rajan

.. Petitioner

Vs.

1.State Bank of India  
rep. by its Authorised Officer,  
Retail Assets Central Processing  
Centre, Kurinji Complex,  
State Bank Road,  
Coimbatore - 641 018.

2.The Presiding Officer,  
Debts Recovery Tribunal,  
Coimbatore.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records and quash the sale notice dated 02.02.2016 issued by the first respondent Bank and consequently seek a direction as against the second respondent to hear the matter on merits with respect to mortgage of residential property belongs to the petitioner.

For Petitioner .. Ms.Ananda Gomathy

For Respondents .. Mr.S.Sethuraman for R1

ORDER

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

With the consent of the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent bank, the writ petition is taken up for final disposal.

2. Pending the application filed before the Debts Recovery Tribunal, Coimbatore (for brevity "the Tribunal") in S.A.No.238 of 2015, the petitioner has come up with this writ petition, seeking to quash the sale notice dated 02 February 2016 and for a direction to the second respondent to hear the matter on merits with respect to mortgage of residential property belonging to the petitioner.

3. Learned counsel appearing for the petitioner submits that the auction is proposed to be held on 15 March 2016 and the petitioner may be permitted to challenge the sale notice in the pending appeal before the Tribunal.

4. Learned counsel appearing for the first respondent Bank submits that the Bank be permitted to proceed with the sale.

5. Having regard to the fact situation, wherein, the dispute is pending consideration in S.A.No.238 of 2015 before the Tribunal, we are of the considered view that the auction shall proceed as notified, however, the sale shall not be confirmed till the petitioner's application, questioning the legality of the sale notice, is considered by the Tribunal.

6. The petitioner is directed to make an application within a period of one week. In the event, the petitioner makes an application, the Tribunal is directed to consider the application as well as the pending application at the earliest on its own merits and in accordance with law.

7. The writ petition stands disposed of with the above direction and observation. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Authorised Officer,  
State Bank of India,  
Retail Assets Central Processing  
Centre, Kurinji Complex,  
State Bank Road,  
Coimbatore - 641 018.

2.The Presiding Officer,  
Debts Recovery Tribunal,  
Coimbatore.

+1 cc to Mr.S.Sethuraman Advocate sr.15580

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