



WEB COPY

1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2016

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Petition (MD) No.20908 of 2015

and

M.P(MD)No.1 of 2015

T.K.Thiruppathi

... Petitioner

Vs.

1.The Authorised Officer,
Union Bank of India,
Regional Office,
Oppanakara Street,
Coimbatore 1.

2.The Branch Manager,
Union Bank of India,
Cantonment Branch,
Trichy.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned sale notice dated 16.10.2015 issued by the 1st respondent and quash the same.

For Petitioner	: Mr.P.Arun Jayatram
For Respondents	: Mr.N.Dilipkumar

ORDER

(Order of the Court was made by **V.RAMASUBRAMANIAN,J.**)

The petitioner has come up with the above writ petition challenging an auction sale notice issued under Section 13(4) of the SARFAESI Act, 2002 read with Rule 8(6) of the Security Interest Rules.

2.Heard Mr.P.Arun Jayatram, learned counsel for the petitioner and Mr.N.Dilipkumar, learned counsel for the respondents.

<https://hcservices.ecourts.gov.in/Hcservices/> The petitioner availed one housing loan and one over draft facility. As security for both the loans, the petitioner mortgaged his property.



4. Both the amounts were classified as non performing assets and a notice under Section 13(2) was issued on 10.01.2014. It was followed by a possession notice dated 04.08.2015.

5. When a sale notice was issued on 16.10.2015, the petitioner came with the above writ petition. Upon finding that the upset price fixed for the property brought to sale was only Rs.6,60,000/- (Rupees Six Lakhs and Sixty Thousand only) and upon the petitioner agreeing to pay at least Rs.6 lakhs, we thought that the matter could be resolved. Therefore, we passed a conditional order on 27.11.2015 granting an interim stay on condition that the petitioner deposits Rs.6,00,000/- (Rupees Six Lakhs only).

6. As per the said order, the petitioner has paid a total amount of Rs.6,00,000/- (Rupees Six Lakhs only). The upset price fixed for the property was only Rs.6,60,000/- (Rupees Six Lakhs and Sixty Thousand only) and in the auction there was only one bidder who offered Rs.6,65,000/- (Rupees Six Lakhs and Sixty Five Thousand only).

7. In the light of the fact that the petitioner has now paid an amount of Rs.6,00,000/- (Rupees Six Lakhs only) which is less than the sole bid amount only by an extent of Rs.65,000/- (Rupees sixty five thousand only), we deem it fit to cancel the auction.

8. The petitioner has filed an affidavit, paragraphs 2 and 3 of which read as follows:

"2. The petitioner states that he filed writ petition challenging the sale proceedings dated 16.10.2015 issued by the 1st respondent. The said writ petition Division Bench of this Hon'ble High Court in its order dated 27.11.2015 directed the petitioner to pay Rs.6 lakhs on or before 10.12.2015. In pursuant to the order, the petitioner herein paid a sum of Rs.2 lakhs on 09.12.2015 and sum of Rs.3,00,000/- paid on 10.12.2015. The petitioner paid total sum of Rs.5,00,000/- and also Hon'ble High Court in its order dated 10.12.2015 granted further time to pay the remaining amount of sum of Rs.1,00,000/- and he also paid Rs.1,00,000/- on 21.12.2015 and paid total sum of Rs.6 lakhs, the remaining amount of Rs.6,91,570/-.

3. The petitioner states that the respondent bank also issued letter dated 21.12.2015 agreed to upgrade the loan account as well as the over draft mortgage amount. The petitioner further states that he intends to close the housing loan on or before 31.03.2016 by paying the remaining amount of housing loan".



9. In the light of the above, the writ petition is allowed, the impugned auction is set aside. The petitioner shall comply with the undertaking given in the affidavit filed today. In the event of the petitioner committing a default, it will be open to the bank to proceed after 31.03.2016. The petitioner should also regularise the over draft account. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1.The Authorised Officer,
Union Bank of India,
Regional Office,
Oppanakara Street,
Coimbatore 1.

2.The Branch Manager,
Union Bank of India,
Cantonment Branch,
Trichy.

+1cc to Mr.P.Arun Jayatram, Advocate Sr.No.1433

+1cc to Mr.N.Dilip kumar, Advocate Sr.No.1159

sms

AA/JGB-DP/21.01.2016/3p-5c

Writ Petition (MD) No.20908 of 2015 and
M.P(MD)No.1 of 2015
07.01.2016