



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) .No.22695 of 2015
and
M.P. (MD) .No.1 of 2015

K.Sivaneswari

... Petitioner

Vs

- 1.The Authorized Officer,
Syndicate Bank,
Regional Office,
Claret Plaza, Melakkal Main Road,
Madurai-625 016.
- 2.The Branch Manager/Chief Manager,
Syndicate Bank,
Nagal Nagar Branch,
Dindigul.
- 3.M/s.Green Health Agro Oils (P) Ltd,
rep.by its Managing Director,
K.Gunasekaran,
Thirumanampatti,
Teppakulathupatti (P.O.)
Alagupatti Village,
Dindigul District.
- 4.K.Gunasekaran
- 5.D.S.Ramesh

... Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying for a Writ of Certiorari to call for the records pertaining the E-Auction Sale Notice Ref.No.MRO/REC/2015/SARFAESI, dated 28.09.2015 and quash the same and declare the consequential sale held on 13.11.2015 as null and void.

For Petitioner :Mr.Suresh
For R.1&2 :Mr.R.Pandivel
For R.3 :Mr.PTS.Narendravasan



official respondents, without assigning any reason as to the cancellation of the said auction. Again, the respondents 1 and 2 went for re-auction by increasing the upset price of Rs.1.55 crores in which the third respondent became the successful bidder. Since the action of the respondents is utter violation of norms and conditions, it can easily be presumed that there is fraud and collusion between the official respondents and the successful bidder and hence, he prays for interference of this Court.

5. *Per contra*, learned Counsel appearing on behalf of the respondents 1 and 2 would submit that the points urged by the learned Counsel for the petitioner is purely a disputed question of fact and therefore, this Writ Petition is not at all maintainable and even otherwise, he has got an alternative remedy under Section 17 of the said Act and hence, prays for the dismissal of this Writ Petition.

6. The third respondent, who is the successful bidder, would submit that, that the Bank Officials have already issued the Sale Certificate to him and in order to deprive the fruits of the same, the present Writ Petition has been brought forward in collusion with the other partners and prays for the dismissal of this Writ Petition.

7. This Court has considered the rival submissions of the parties concerned and perused the materials placed before this Court.

8. In the considered opinion of this Court, whether the fraud has been practised or not and whether there is collusion between the respondents 1 and 2 with the rest of the borrowers or not, are all disputed questions of fact and this Court, exercising its jurisdiction, under Article 226 of Constitution of India cannot venture into the same. As rightly contended by the learned Counsel for the respondents 1 and 2, the petitioner is also having an effective alternative remedy under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and as such, he can avail the said remedy subject to law of limitation. Further, if the petitioner is of the firm view that fraud and collusion has been practised, then Section 34 of the Act is also not a bar to approach the competent Civil forum to work out her remedy.

9. In the light of the reasons assigned above and in the light of the facts and circumstances of the case, this Court is of the view that this Writ Petition is not maintainable and therefore, it is liable to be dismissed.



10. In the result, this Writ Petition stands dismissed.
No costs. Consequently, the connected miscellaneous petition is closed.

WLB COPY

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

ssm

To

1.The Authorized Officer,
Syndicate Bank,
Regional Office,
Claret Plaza, Melakkal Main Road,
Madurai-625 016.

2.The Branch Manager/Chief Manager,
Syndicate Bank,
Nagal Nagar Branch,
Dindigul.

+1cc to Mr.R.Pandivel Advocate Sr.No. 60961

+1cc to Mr.Aiyar & Dolia Advocate Sr.No.61485

+1cc to Mr.PTS.Narendravasan Advocate Sr.No. 61078

JAM/08.11.16/GSV-PM/ 4p-6c

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