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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.05.2016

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD)No.9656 of 2016

and

W.M.P(MD)Nos.7684 and 7685 of 2016

M.Kasthuri

: Petitioner

Vs.

State Bank of India,
rep. By its Authorised Officer,
Nehruji Nagar Branch,
No.101, Municipal Colony,
Dindigul - 624 001.

: Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the impugned Tender Cum Sale Notice of the respondent dated 21.04.2016 published in the Thinathanthi under SARFAESI Act and quash the same and direct the respondent to permit the petitioner to settle the amount due to the respondent bank under One Time Settlement.

For Petitioner

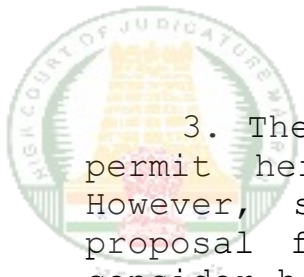
: Mr.R.Saravanan

O R D E R

(Order of the Court was made by S.S.SUNDAR, J)

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned Tender Cum Sale Notice of the respondent dated 21.04.2016 published in the Thinathanthi under SARFAESI Act and quash the same and directing the respondent to permit the petitioner to settle the amount due to the respondent bank under One Time Settlement.

2. The petitioner states that she had already paid a sum of Rs.2,75,000/-, though a sum of Rs.4,00,000/- was sanctioned as housing loan. It is the case of the petitioner that due to financial crisis, she is not able to pay the monthly instalments. Though she admits that the respondent bank had issued demand notice on 06.08.2012 and had initiated the proceedings under Sections 13(2) and 13(4) of the SARFAESI Act even in the year 2012, she challenges the sale notice dated 21.04.2016, wherein the auction was proposed to be held on 25.05.2016.



3. The petitioner seeks a direction to the respondent bank to permit her to settle the amount under One Time Settlement. However, she has not even sent a representation containing a proposal for One Time Settlement so as to enable the bank to consider her representation.

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4. The Hon'ble Supreme Court has time and again held that in these cases the High Court cannot entertain writ petition as there is an effective and alternative remedy available under Section 17 of the said Act.

5. In view of the matter, this Court is not inclined to entertain the writ petition. Further, we find that the date of sale fixed in the impugned notice is 25.05.2016 and the sale is already over. However, it is represented before us that there is no participant at the time of auction and the sale is postponed.

6. Considering these circumstances, we give liberty to the petitioner to approach the bank with a proposal for One Time Settlement and if a proposal is submitted by the petitioner, the respondent bank shall consider such proposal in accordance with the norms of the Reserve Bank of India and other guidelines and regulations, without being influenced by this order dismissing the writ petition.

With the above directions, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar/

Vacation Officer

/True copy/

Sub Assistant Registrar(CS)

To,
The Authorised Officer,
State Bank of India
Nehruji Nagar Branch,
No.101, Municipal Colony,
Dindigul - 624 001.

+1cc to Mr.R.Saravanan, Advocate in SR.27163

W.P. (MD) No.9656 of 2016
and

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26.05.2016

SKN/GSR

PBK/DB/SAR-II 02.06.2016 ::2P-3C: