



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P. (MD) No.944 of 2015
and
M.P (MD) Nos.1 and 3 of 2015
and
W.M.P (MD) No.3957 of 2016

Gopalakrishnan

... Petitioner

Vs.

1.The Regional Manager,
Central Bank of India,
Raja Muthiah Mandram 1st Floor,
Dr.Ambedkar Road,
Madurai - 20.

2.The Central Bank of India,
Nagercoil Branch,
rep. by its Senior Manager,
PWD Road, Kunja Nadar Complex,
Nagercoil, Kanyakumari District.

3.T.Ajikumar

(R3 impleaded vide Court order dated 16.04.2015
made in M.P(MD)No.2 of 2015)

4.The Recovery Officer,
Debts Recovery Tribunal,
Kalyani Towers,
Uthankudy Post,
Madurai.

(R4 impleaded vide Court order dated 26.04.2016
made in M.P(MD)No.4 of 2015)

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from alienating or issuing sale certificate with regard to the property in S.No.190/3, 90/4B,190/4C, 190/4B,190/7, 190/8 in total 49 cents situated at Painkulam Village, in favour of any third persons till 04.12.2014 is expired and pass such further or orders.



For Petitioner : Mr.S.C.Herold Singh
For Respondents : Mr.R.Pandivel
(for R1 and R2)
Mr.T.Cibichakraborty (for R3)
No appearance (for R4)

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ORDER

This writ petition is filed seeking for a Mandamus forbearing the respondents from alienating or issuing sale certificate with regard to the property in S.No.190/3, 90/4B,190/4C, 190/4B,190/7, 190/8 measuring 49 cents situated at Painkulam Village, in favour of any third persons till the period specified in the award of the lok Adalat dated 04.12.2014 expires.

2.Originally, this writ petition is filed against the respondents 1 and 2. Thereafter, the 3rd and 4th respondents were impleaded as party respondents, while the 3rd respondent is the auction purchaser and the 4th respondent is the Recovery Officer of the Debts Recovery Tribunal, Madurai.

3.The learned counsel appearing for the respondent bank questioned the very maintainability of the writ petition with the present relief by contending that the entire matter is seized of by the Debts Recovery Tribunal, through such proceedings, the auction was conducted and the third respondent has become the auction purchaser and consequently, the fourth respondent being the Recovery Officer of the Debts Recovery Tribunal, Madurai, has to issue the sale certificate in favour of the third respondent. Therefore, he contended that when such being the position, the petitioner cannot maintain the writ petition before this Court.

4.The learned counsel appearing for the petitioner on the other hand contended that the very sale itself was conducted without considering the fact that the petitioner has already paid the entire money in pursuant to the award passed by the Lak Adalat on 04.12.2014.

5. Heard both sides.

6.Needless to say that when the matter is already seized of by the Debts Recovery Tribunal and the same is pending by conducting an auction by the Recovery Officer, the petitioner cannot approach this Court and file this writ petition, which in my considered view, is not maintainable. All the contentions raised by the petitioner herein has to be raised only before the Recovery Officer by filing appropriate application as contemplated under the relevant law.

<https://hcservices.ecourts.gov.in/hcservices/>

7.Therefore, this writ petition is disposed of as not maintainable, however, by granting liberty to the petitioner to



raise all contentions before the fourth respondent/Recovery Officer by filing appropriate application, within a period of two weeks. If any such application is filed, the fourth respondent/Recovery Officer shall consider the same and pass orders on its own merits and as per the procedure contemplated under the relevant law, after giving opportunity of hearing to all the parties concerned, within a period of four weeks thereafter. Since the petitioner contends that he has paid the entire money, in the interest of justice, it would be better for the Recovery Officer not to confirm the sale in favour of third respondent till he passes an order on the petitioner's application as stated supra. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

skn

+1CC to Mr.S.Herold Singh, Advocate Sr.No.7118

+1CC to Mr.R.Pandivel, Advocate Sr.No.7117

+1CC to Mr.T.Cibi Chakrabarthy, Advocate Sr.No.7198

GJM/BS.17.2.17-3p-4c

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and

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