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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

AND

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.20861 of 2017

and

W.M.P. (MD)No.17149 of 2017

M/s.Rovin Packers,
Rep. by its Proprietor
S.Geraldpious

: Petitioner

-Vs-

1.Indian Bank,
Rep. by its Authorized Officer,
Corporate Office,
Royapaettah,
Chennai.

2.Indian Bank,
Rep. by its Authorized Officer,
825, Tenkasi Road,
Rajapalayam Branch,
Rajapalayam - 626 117,
Virudhunagar District.

3.Indian Bank,
Rep. by its Manager,
Srivilliputhur Branch,
Srivilliputhur,
Virudhunagar District.

4.The Secretary,
The Reserve Bank of India,
Chennai-600 009.

5.Mr.Kamarajar

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first Respondent to set aside the intended sale notice under Rule 6(2) and 8(6) of SARFAESI Act, dated 17.04.2017 to take over the possession of the security property and consequently, direct the third Respondent to stop further proceedings in respect of the e-auction conducted by him on



For Petitioner

: Mr.M.Solaisamy

For Respondents 1to3

: Mr.Pala Ramasamy

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O R D E R

[Order of the Court was made by **M.VENUGOPAL, J.**]

Mr.Pala Ramasamy, Learned Standing Counsel, takes notice for the Respondents 1 to 3.

2. Heard the Learned Counsel for the Petitioner and the Learned Standing Counsel appearing for the Respondents 1 to 3/Bank.

3. Insofar as the Respondents 4 and 5 are concerned, to avoid an avoidable delay, issuance of notice is dispensed with.

4. It comes to be known that the Indian Bank, Rajapalayam Branch, Virudhunagar District, had issued the 'Notice of Intended Sale, dated 17.04.2017' to bring the properties on sale. As a matter of fact, the fifth Respondent is the successful bidder in the e-auction conducted by the Bank. The reserved price was said to be determined as Rs.23,00,098/-. The fifth Respondent was declared as the successful bidder for Rs.24,50,000/-.

5. In view of the fact that the Petitioner was issued with the Notice of Intended Sale under Rule 6(2) and 8(6) of the Security Interest (Enforcement Rules), 2002 under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and also taking note of the fact that the fifth Respondent is the successful bidder in the e-auction that took place on 06.05.2017, this Court is of the considered view that the Petitioner is to approach the Debts Recovery Tribunal, Madurai, which is the competent authority, to assail the impugned Notice of Intended Sale dated 17.04.2017. In short, the filing of the Writ Petition challenging the Intended Notice of Sale issued by the second Respondent/Indian Bank, dated 17.04.2017, is per se not maintainable in law, because of the simple reason that the Petitioner has an effective, efficacious, viable and alternative statutory remedy of approaching the Debts Recovery Tribunal, Madurai, of course, in the manner known to law and in accordance with law, for redressal of its grievances.

6. In fine, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

7. However, it is abundantly made clear that the dismissal of the present Writ Petition will not preclude the Petitioner to approach the competent Debts Recovery Tribunal and to seek redressal



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of its grievances in the manner known to law and in accordance with law, if it so desires/if so advised.

Sd/-

Assistant Registrar (CRL. SIDE)

/True Copy/

Sub Assistant Registrar

+1cc to M/s. M.SOLAISAMY Advocate in SR. No. 87439

+1cc to M/s. PALA RAMASAMY Advocate in SR. No. 87422

SML

JS/KK/SAR.1/24.11.2017/3P-3C

Order made in

W.P. (MD) No. 20861 of 2017

Dated: 14.11.2017