



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**

AND

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P. (MD) No.20438 of 2016

and

W.M.P. (MD) Nos.14672 to 14674 and 15185 of 2016

K.Nasurullah

: Petitioner

Vs.

1.The Manager,
Indian Bank,
Main Branch, Trichy.

2.The Authorised Officer,
Indian Bank,
Main Branch, Trichy.

3.Thahir Ahamed

4.T.Faridha Begam

5.Thaibunnisha Begam

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first and second respondents resulting in possession notice dated 02.03.2016 and consequential Auction Sale Notices dated 07.05.2016 and 20.07.2016 scheduled to be conducted an auction sale on 24.08.2016 scheduled to be conducted an auction sale on 24.08.2016 and quash the same in so far as Item No.II of the property shown in the possession notice as well as in the auction sale notice situated at Door No.15, Old Ward No.6, Old Block No.2, T.S.No.204, New Ward No.'G', Block No.2, T.S.No.74/Part, to an extent of 984 sq.ft. at Door No.15, Kiledhar Street, Trichy and Mandamus, forbearing the respondents 1 and 2 to bring the Item No.II of the property as shown in the possession notice dated 02.03.2016 as well as in the auction sale notice dated 07.05.2016 from bringing the same for auction sale on 24.10.2016 or any other subsequent date in future.

For Petitioner

: Mr.V.R.Venkatesan

For Respondents 1&2

: Mr.T.Govindasamy

**O R D E R****[Order of the Court was made by R.SUBBIAH, J.]**

The present Writ Petition has been filed seeking for the issue of a Writ of Certiorarified Mandamus, to call for the records of the first and second respondents resulting in possession notice dated 02.03.2016 and consequential Auction Sale Notices dated 07.05.2016 and 20.07.2016 scheduled to be conducted an auction sale on 24.08.2016 and on 24.08.2016 and quash the same insofar as Item No.II of the property shown in the possession notice as well as in the auction sale notice situated at Door No.15, Old Ward No.6, Old Block No.2, T.S.No.204, New Ward No.'G', Block No.2, T.S.No.74/Part, to an extent of 984 sq.ft. at Door No.15, Kiledhar Street, Trichy and Mandamus, forbearing the first and second respondents to bring the Item No.II of the property as shown in the possession notice dated 02.03.2016 as well as in the auction sale notice dated 07.05.2016 from bringing the same for auction sale on 24.10.2016 or any other subsequent date in future.

2. Earlier, this Court, by order dated 25.11.2016, has given liberty to the petitioner to approach the Debts Recovery Tribunal concerned, in the light of the decisions of the Hon'ble Supreme Court reported in **2016(2) Law Weekly 97 [Baleshwardayal Jaiswal vs. Bank of India and others]** and **2016(2) CTC 593 [A.L.Shah vs. Authorised Officers State Bank of Hyderabad, Pondicherry Branch]**.

3. Today, when the matter was taken up for consideration, the learned counsel for the petitioner submits that now the bank has issued a fresh notification for auction in Thinathanthi Newspaper on 29.12.2016.

4. In view of the subsequent notification, we are of the view that the prayer in the Writ Petition itself has become infructuous and as such, nothing survives for adjudication in this Writ Petition. Accordingly, the Writ Petition is dismissed as infructuous. However, the petitioner is at liberty to work out his remedy before the Debts Recovery Tribunal concerned as against the present notification.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

+1 CC to Mr.J.MADHU, Advocate, SR No.639.

+1 CC to Mr.T.GOVINDASAMY, Advocate, SR No.763.

Order made in

W.P. (MD) No.20438 of 2016