

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.09.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.7011 of 2018 and
W.M.P.No.8638 of 2018

P.Patchaiammal

.. Petitioner

Vs.

- 1.The Assistant General Manager,
Zonal Office, Indian Bank,
No.66/41, ECR Road,
Pakkamudaiyanpet,
Puducherry - 605 008.
- 2.The Chief Manager,
Indian Bank, Kamaraj Branch,
No.42, Vallalar Salai,
Puducherry.
- 3.The Authorized Officer,
Indian Bank, Kamaraj Branch,
No.42, Vallalar Salai,
Puducherry.
- 4.Reliance Asset Reconstruction Company Ltd.,
Reliance Centre,
rep by Chief Manager P.Thiyagarajan
(Implead as per order dt.27/08/2018 in Wmp 25086/2018)

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus calling for the records on the file of the 2nd respondent herein dated 09.01.2018 and quash the same and direct the 3rd respondent to issue Sale Certificate after collecting the balance Sale Price.

For Petitioner : Mr.P.Suresh

For Respondents : Mrs.S.R.Sumathy (R2 & R4)
R1 & R3 - no appearance

O R D E R
(Order of the Court made by M.DURAI SWAMY, J.)

The above Writ Petition has been filed by the petitioner to issue a Writ of certiorarified mandamus calling for the records on the file of the 2nd respondent dated 09.01.2018 and to quash the same and to direct the 3rd respondent to issue Sale Certificate after collecting the balance Sale Price.

2. According to the petitioner, the respondent - Bank published the auction notice on 08.10.2016 in respect of immovable property situated in Cadaste No.1231 - 2/3/1/2, R.S.No.165/5, 14th Cross Street, Door Nos.25 & 26, Saram Revenue Village, Krishna Nagar, Oulgaret Municipality, Puducherry Registration District measuring an extent of 900 sq.ft., under the SARFAESI Act, 2002. Further, according to the petitioner, based on the said notification, she approached the 3rd respondent in respect of auction of the said property and that the 3rd respondent advised her to deposit the amount in the borrower's account and pursuant to the same, she had deposited a sum of Rs.12,37,500/-. The petitioner further contended that she had approached the respondent - Bank on many occasions with the balance Sale Consideration of Rs.11,12,500/- and requested them to issue the Sale Certificate in respect of the property. In these circumstances, the petitioner has filed the Writ Petition seeking for the above stated relief.

3. The respondent - Bank filed their counter wherein it has been specifically stated that the petitioner has not participated in the auction, hence, she has no locus standi to file the Writ Petition.

4. The learned counsel appearing for the petitioner also fairly submitted that the petitioner has not participated in the e-auction sale on 23.02.2017.

5. Mrs.S.R.Sumathy, learned counsel taking notice for the respondents 2 & 4 - Bank submitted that on 23.02.2017, the e-auction had failed as there was no bidders. Further, she has specifically stated that the petitioner has not participated in the e-auction on 23.02.2017.

6. When the petitioner had deposited the alleged amounts to the credit of the borrower's account and in a non-lien account, the said deposits made by her cannot be construed as the payments towards Sale Consideration of the property. The petitioner cannot file the Writ Petition for the issuance of the Sale Certificate when she had not participated in the e-auction on 23.02.2017.

7.In these circumstances, the Writ Petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

va

To

1.The Assistant General Manager,
Zonal Office, Indian Bank,
No.66/41, ECR Road,
Pakkamudaiyanpet,
Puducherry - 605 008.

2.The Chief Manager,
Indian Bank, Kamaraj Branch,
No.42, Vallalar Salai,
Puducherry.

3.The Authorized Officer,
Indian Bank, Kamaraj Branch,
No.42, Vallalar Salai,
Puducherry.

W.P. No.7011 of 2018 and
W.M.P.No.8638 of 2018

KJI (CO)

rrs 26/09/2018

WEB COPY