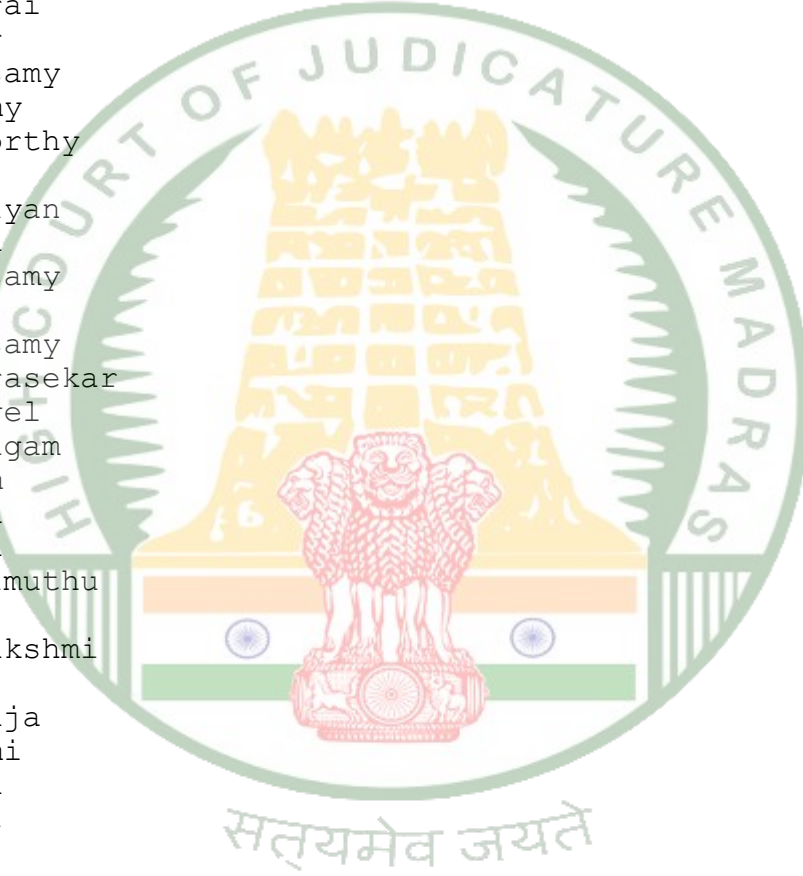


IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON: 23.10.2018
PRONOUNCED ON: 24.10.2018

CORAM
THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P. No.25207 of 2018
and W.M.P.Nos.29302 to 29304 of 2018

1. P.Chinnadurai.
2. M.Govindan
3. K.Umaidurai
4. P.Panneer
5. M.Palanisamy
6. P.Balusamy
7. C.Ramamoorthy
8. J.Dinesh
9. P.Chinnaiyan
10. J.Anandan
11. C.Periyasamy
12. D.Priya
13. A.Periyasamy
14. R.Chandirasekar
15. S.Sakthivel
16. P.Ramalingam
17. P.Thangam
18. G.Vignesh
19. N.Kandhan
20. M.Pazhanimuthu
21. C.Chitra
22. S.Muthulakshmi
23. A.Jaya
24. K.Elayaraja
25. A.Sivakami
26. K.Ganesan
27. S.Manivel
28. S.Vairam
29. S.Murugan
30. M.Thangavel
31. M.Malar
32. R.Saroja
33. P.Saranya
34. K.Mookan
35. M.Periyannan
36. S.Saraswathi
37. M.Selvi
38. P.Chinnasamy



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.. Petitioners

Vs

1.M/s Axis Bank Ltd.
Rep. by its Authorized Signatory
No.439, Magnum Towers - II Floor
Dr.Nanjappa Road
Gandhipuram
Coimbatore 641 018.

2.M/s Axis Bank Ltd.,
Athur Branch
Rep. by its Branch Manager
No.910, Niresh Complex
Athur, Salem District 636 102.

3.Sri Muthukumaran Traders
C/o Sri Valli Oil Milss
Rep. by its Proprietor P.Muthukrishnan
S/o Palaniappan
No.249, Suramangalam Main Road
Pallapatti, Salem 9.

4.P.Gopalakrishnan .. Respondents
(R3 and R4 impleaded as per order of this Court dated 03.10.2018)

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records of the respondents culminated in the impugned Auction Sale Notice dated 22.04.2018 published vide 'Thaily Thanthi' on 22.04.2018, quash the same and consequently forbear the respondents from taking any further proceedings against the petitioners in respect of their loan accounts and enforcement against the secured goods, being in violation of the procedures contemplated under the law.

For petitioners : Mr.Om Prakash
Senior Counsel
for Mr.S.Vijay Ganesh

For R1 and R2 : Mr.M.R.Uma Vijayan

For R3 and R4 : Mr.C.Prakasam

ORDER

This petition has been filed challenging the Auction Sale Notice dated 22.04.2018 published vide 'Daily Thanthi' on 22.04.2018 and consequently, to forbear the respondents 1 and 2 from taking any further proceedings against the petitioners in respect of their loan accounts and enforcement against the secured goods, being in violation of the procedures contemplated under the law.

2. In the connected Criminal Original Petitions, viz., CrI.O.P.Nos.21722 and 21723 of 2018 filed by the successful bidders, this Court passed detailed orders on 24.10.2018, affording police protection to the petitioners therein for removing the groundnut stock from the godowns and therefore, it may not be necessary to recapitulate the facts of the case. Suffice it to say that these petitioners had borrowed huge amounts of money from Axis Bank under Commodity Loan Scheme and had defaulted in making repayment to the Bank. Therefore, the Bank had no other option, but to bring the hypothecated commodities to sale which is challenged in this petition.

3. The Bank had given several opportunities to the petitioners to repay the amount and in fact, the Bank had even agreed to waive substantial interest and principal, which the petitioners/borrowers failed to avail.

4. The learned counsel for the Bank produced a communication dated 23.05.2018 given by one T.Periyasamy, S/o Thangavel, addressed to the Bank, wherein, he has stated that all the loans were taken by him in the name of 53 borrowers. He has further undertaken to repay the amounts in instalments to the Bank but had miserably failed to adhere to his commitment.

5. The successful bidders were prevented by the petitioners from taking possession of the commodity and therefore, they filed CrI.O.P.Nos.21722 and 21723 of 2018 seeking police protection. In those petitions, most of the petitioners herein have been shown as respondents.

6. On 11.10.2018, this Court heard all the parties, including the petitioners herein, in those two cases and when this Court was about to issue directions to the police to give protection to the successful bidders, the petitioners herein came forward to amicably settle with the Bank during the Dusserah holidays and report to this Court. Therefore, this Court did not pass orders on 11.10.2018 in those two criminal original petitions. However, on 23.10.2018, learned counsel for the petitioners in those two cases and the learned counsel for the Bank made a special mention before this Court that the petitioners herein are illegally removing the stocks from the godowns with the aid of goondas and politicians. Therefore, this Court had to intervene and issue directions to the Superintendent of Police, Villupuram to interpose and prevent such illegal removal. When this was brought to the notice of Mr.Om Prakash, learned Senior Counsel appearing for the petitioners herein, he, in his usual fairness recused himself and stated that this Court can direct the police to take appropriate action against the depredators. Thus, this Court does not find any infirmity in the auction proceedings nor are

the petitioners entitled to any relief on equity.

In this result, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Authorized Signatory,
M/s.Axis Bank Ltd.,
No.439, Magnum Towers-II Floor,
Dr.Nanjappa Road,
Gandhipuram, Coimbatore - 641018

2.The Branch Manager,
M/s Axis Bank Ltd.,
Athur Branch
No.910, Niresh Complex
Athur, Salem District 636 102.

+1cc to Mr.S.Vijayaganesh, Advocate, S.R.No.72266.
+1cc to Mr.M.R.Umavijayan, Advocate, S.R.No.72456.
+1cc to Mr.Prakasam, Advocate, S.R.No.72340.

W.P.No.25207 of 2018

PVS (CO)

rrs 24/10/2018

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