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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.03.2018
CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

W.P. (MD) No.5092 of 2018
and
C.R.P. (PD) (MD) .No.521 of 2018
and
C.M.P (MD) No.2279 of 2018
and
W.M.P. (MD) Nos.5074 and 5075 of 2018

W.P. (MD) No.5092 of 2018:

M.Noorul Ameen

... Petitioner

Vs.

1.The Authorized Officer,
Tamil Nadu Mercantile Bank,
Regional Office,
Door NO.3A/16, I Floor,
South Bye-Pass Road,
Vannarpettai,
Tirunelveli-627 003.

2.The Senior Manager/Branch Manager,
Tamil Nadu Mercantile Bank,
Shenkottai Branch,
1/756-1, Courtallam Road,
Piranoor, Shenkottai,
Tirunelveli District.

3.A.Kumaraguru

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records, pertaining to the impugned order passed by the second respondent dated 22.01.2018, and quash the same and consequently direct the first and second respondents to receive the balance sale consideration as per the representation of the petition dated 03.03.2018.

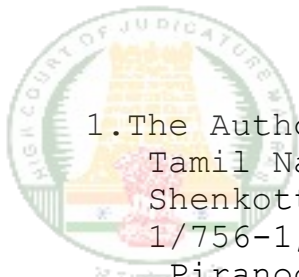
C.R.P. (MD) No.521 of 2018:

M.Noorul Ameen

... Petitioner/Petitioner/Applicant

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

Vs.



1.The Authorized Officer,
Tamil Nadu Mercantile Bank,
Shenkottai Branch,
1/756-1, Courtallam Road,
Piranoor, Shenkottai-627809,
Tirunelveli District.

2.M/s. Veni Wood Industries,
Rep. by its partner A.Kumaraguru,
S/o. P. Arunachalam,
No.1/348, Courtallam Cross Road,
Pranoor Border,
Shenkottai-627 809.

... Respondents/Respondents/Respondents

PRAYER:This civil revision petition is filed under Article 227 of the Constitution of India, to set aside the order dated 07.02.2018 in I.A.No.267 of 2018 in S.A.No.51 of 2018 on the file of the Debts Recovery Tribunal, Madurai.

For Petitioners (in both petitions): Mr.R.Vijayakumar

For Respondents(in both petitions) : Mr.A.R.M.Ramesh

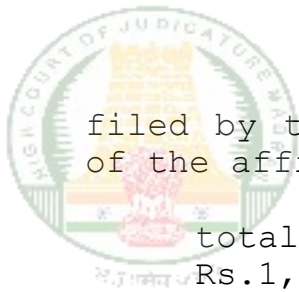
COMMON ORDER

(Order of this Court was made by T.S.SIVAGNANAM, J)

Heard Mr.R.Vijayakumar, the learned counsel appearing for the petitioner and Mr.A.R.M.Ramesh, the learned counsel for the respondents.

2.The petitioner having been entered into private treaty with Bank for the purchase of property in question, a part of the amount has been paid. Before the remaining amount can be paid, the property was brought for sale by the respondent Bank on the ground that the time limit stipulated in the private treaty was not adhered to. The case of the petitioner is that even after the expiry of the time limit the payment has been received by the respondent Bank.

3.We have heard the matter on two occasions elaborately. We tried to settle the matter. Accordingly, the petitioner had to file an affidavit as to what is the total amount he will pay towards the purchase of the property. This direction was issued since the learned counsel for the respondent Bank stated that when the matter was bought for public auction there was a third party ready to pay the entire consideration of Rs.1.60 crores in one shot. However, <https://hcservices.reports.gov.in/hcservices/secure/signin.do> considering that the petitioner had already made substantial payment, we directed the petitioner to file an affidavit. Accordingly, the affidavit dated 15.03.2018 has been



filed by the petitioner in this petition. The following paragraphs of the affidavit are relevant:

"3. I further submit that I agree to enhance the total sale consideration of the property to Rs.1,59,74,000/- for the property I.e. Referred to in the private treaty dated 28.08.2017.

4.I further submit that I have already deposited a sum of Rs.53,00,000/- to the second respondent bank. Today I am handing over a demand draft for Rs.46,00,000/- to the Manager of the 2nd respondent bank who is present in the Court.

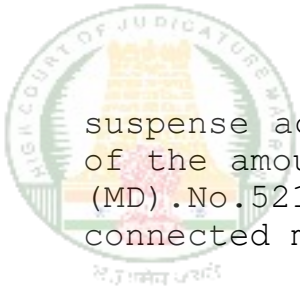
5. I further submit that I agree deposit a further sum of Rs.10,00,000/- on or before 31.03.2018. I agree to deposit the entire balance sale consideration on or before 03.05.2018.

6. I further submit that the 1st respondent bank has issued sale notice dated 13.03.2018 and published the same on 14.03.2018 for sale of 4 items of the property including the property covered under the private treaty as item No.1 to conduct a public auction on 31.03.2018.

It is therefore prayed that this Hon'ble Court may be pleased to direct the 2nd respondent to receive the balance sale consideration of Rs.66,74,000/- out of the total sale consideration Rs.1,59,74,000/- and not to proceed with the sale of the 1st item of the property as per the sale notice dated 13.03.2018 and published on 14.03.2018 and thus render justice."

4.Though the learned counsel for the respondent Bank vehemently contented that there should be fair procedure in order to safeguard the interest of the respondent Bank. We find that the undertaking given by the petitioner before the Court and recording the same in the Court, would safeguard the interest of the Bank as any deviation would amount to committing of contempt of Court by the petitioner. In terms of affidavit, the petitioner is directed to give a demand draft of Rs.40,00,000/- to the Branch Manager of the respondent Bank who is present in the Court. As regard the remaining amount of Rs.10,00,000/- it shall be paid on or before 31.03.2018 and the balance amount about of Rs.57,00,000/- shall be paid on or before 30.04.2018. In the event of default, the respondent Bank is entitled to proceed in accordance with law.

5.In the light of the above order, the sale notice which has been published on 14.03.2018 shall be remained stayed in respect of the property which is the subject matter of this writ petition. The amount paid by the petitioner earlier as well as payment made today across court and payment made on 31.03.2018 and payment to be made on 30.04.2018 shall be retained in the interest in a separate



suspense account and not credited to the loan account on completion of the amount. In the result, W.P.(MD)No.5092 of 2018 and C.R.P.(PD)(MD).No.521 of 2018 are disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

- 1.The Authorized Officer,
Tamil Nadu Mercantile Bank,
Shenkottai Branch,
1/756-1, Courtallam Road,
Piranoor, Shenkottai,
Tirunelveli District.
- 2.The Authorized Officer,
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- 3.The Senior Manager/Branch Manager,
Tamil Nadu Mercantile Bank,
Shenkottai Branch,
1/756-1, Courtallam Road,
Piranoor, Shenkottai,
Tirunelveli District.

+1cc to M/S.R.Vijayakumar, Advocate SR.No. 55860

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and
C.R.P. (PD) (MD) .No.521 of 2018
and
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and
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mrn

JM/SV MMS/SAR 1/18.05.2018/4P/5C

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