



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

W.P(MD)No.317 of 2018
and
W.M.P(MD)Nos.329 and 330 of 2018

S.M.R.Gunasekar

.. Petitioner

Vs.

1.The Authorised Officer,
Bank of Baroda,
Madurai Main,
D.No.15 C, North Veli Street,
Madurai.

2.M/s.Golden Communications,
HIG-16, 80 Ft. Road,
Anna Nagar, Madurai - 625 020.

3.Jeyakodish

[Third respondent is suo motu impleaded,
vide order, dated 09.01.2018]

.. Respondents

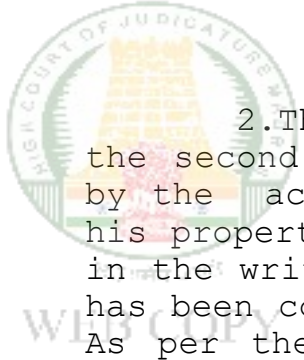
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to the sale proceedings dated 27.12.2017, in No.BOB/MADURAI/ADU/52/996 in pursuance of the auction sale notice dated 23.11.2017 in No.BOB/MADURAI/ADU/52/996 and quash the same and direct the first respondent to receive the sum of Rs.2,16,25,000/- from the petitioner and discharge the property from mortgage and release the title deeds to the petitioner.

For Petitioner	: Mr.A.R.M.Ramesh
For Respondent No.1	: Mr.Pala Ramasamy
For Respondent No.2	: Mr.Devan
	(No appearance)
For Respondent No.3	: Mr.M.Vallinayagam
	Senior Counsel for Mr.P.Ganapathi Subramanian

ORDER

[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.A.R.M.Ramesh, learned counsel appearing for the petitioner, Mr.Pala Ramasamy, learned counsel appearing for the first respondent as well as Mr.M.Vallinayagam, learned senior counsel, representing Mr.P.Ganapathi Subramanian, learned counsel appearing for the third respondent.



2.The petitioner, who is a guarantor for the loan availed by the second respondent from the first respondent bank, is aggrieved by the action initiated by the first respondent bank, in bringing his property for auction, to recover the loan. The orders impugned in the writ petition, were not issued to the petitioner. The sale has been completed and the third respondent is a successful bidder. As per the conditions, she has deposited 25% of the bid amount. Now, the petitioner has come forward with this case, that no proper notice was received and that the property has been sold for a sum of Rs.2,16,25,000/-, whereas there is a offer for a sum of Rs.2,50,00,000/-.

3.In our considered view, all these contentions cannot be canvassed in a writ petition, especially, when the petitioner had some effective alternative remedy under the provisions of SARFAESI Act. Admittedly, he did not approach the Debts Recovery Tribunal, immediately after action under Section 13(4) of the Act, was initiated. Therefore, the present attempt made by the petitioner, cannot be entertained, that too, by way of a writ petition.

4.For the above reasons, the writ petition is dismissed, as not maintainable. We do not express any opinion on the merits of the matter and leave it open to the petitioner to work out his remedy in accordance with law. The above writ petition was filed on 08.01.2018. Therefore, if the petitioner initiates any proceedings under the SARFAESI Act, the period between 08.01.2018 and till the date of receipt of the certified copy of this order, shall be excluded while computing limitation. No costs. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

+1cc to M/S.Pala Ramasamy, Advocate SR.No. 50150
+1cc to M/S.A.R.M.Ramesh, Advocate SR.No. 49892

ORDER MADE IN
W.P (MD) No.317 of 2018
and
W.M.P (MD) Nos.329 and 330 of 2018
20.02.2018