BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.[MD].No.3246 of 2018
and
W.M.P(MD)No.3407 of 2018

V.M.Venkatasamy : Petitioner

vs.

1. The Authorized Officer,
   Canara Bank Main Branch,
   South Main Road,
   Thanjavur.

2. The Manager,
   Canara Bank Main Branch,
   South Main Road,
   Thanjavur.

3. M.Anand,
   Proprietor,
   Valarmathi Offset Printers,
   No.1422, Varagappa Iyer Road,
   South Main Street,
   Thanjavur. : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first and second respondents to accept loan due amount in respect of over draft facility loan granted in favour of the third respondent in Loan Agreement No.1221285000005 and release the property of the petitioner in T.S.Nos.1656 and 1657 with buildings in Vaidialinga Asari Lane, South Main Road, Thanjavur.

For Petitioner : Mr.V.Panneer Selvam
For R1 & R2 : Mr.Pala Ramasamy
Panel Advocate
For R3 : No Appearance

O R D E R

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Heard Mr.V.Panneer Selvam, learned counsel appearing for the petitioner and Mr.Pala Ramasamy, learned Standing counsel appearing for the respondents Bank.

2.The petitioner stood as a guarantor for the loan availed by the third respondent from the Second Respondent Bank and has defaulted in repayment. Consequently, the respondent Bank is proposing against the petitioner property by way of proceedings, dated 17.01.2018. The petitioner would state that he is ready and willing to settle the outstanding amount, for which, he stood as guarantor and on payment of loan amount with interest, the property offered as security may be released.

3.The learned counsel appearing on behalf of the respondents/Bank on instructions would submit that the Bank has proceeded against the petitioner only in respect of repayment, which is due and payable by the third respondent, for which, the petitioner stood as guarantor and they are not insisting the petitioner to pay the outstanding amount in respect of the other loan availed by the third respondent.

4.However, it is an amount claimed in the auction notice is the amount payable to the principle amount after adjusting whatever the payment by the third respondent/borrower.

5.The learned counsel for the petitioner on instructions would submit that the petitioner will pay the amount as included in the auction sale notice on or before 24.02.2018 and if the same is paid within a period, the respondent shall receive the same and release the property mortgaged and return the title deeds of the petitioner.

6.The learned counsel for the petitioner expressed her apprehension that the respondents Bank will not reckon the payment made by the borrower towards loan amount. The petitioner need not have any apprehension as this Court is inclined to direct the second respondent to show the account as to how the adjustment has been effected. In the light of the above undertaking given by the petitioner, auction sale proceedings shall stand deferred. If the petitioner fails to comply with the above undertaking, the benefit of the above order will not ensure the petitioner and the respondent Bank will be entitled to proceed with the auction sale notice scheduled on 26.02.2018.

7.With the above observation, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

+1cc to Mr.Pala Ramasamy Advocate in SR. NO.49626
+1cc to Mr.V.Panneer Selvam Advocate in SR. NO.49439

am
MV:SV-MMS:SAR1:22/02/2018/3P/3C

WP(MD)No.3246 of 2018

16.02.2018