



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2018

CORAM:

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

W.P.(MD) No.4855 of 2018

and

W.M.P.(MD) No.4855 and 4856 of 2018

Arunachalam

... Petitioner

-vs-

The Authorised Officer,
Indian Overseas Bank,
Manur Branch,
Tirunelveli District - 627 201.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the e-auction impugned notification dated 19.02.2018 published on 20.02.2018 in Tamil News Paper Daily Thanthi by the respondent under Rule 13(4) of SARFAESI Rules, 2002, quash the same.

For Petitioner : Mr.RM.Arun Swaminathan

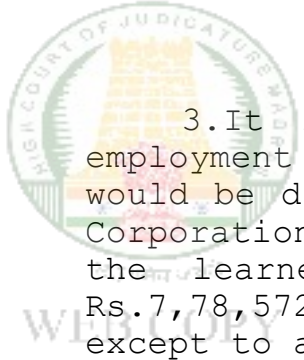
For Respondents : Mr.N.Dilip Kumar

O R D E R

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

Heard Mr.RM.Arun Swaminathan, learned counsel for the petitioner and Mr.N.Dilip Kumar, learned counsel for the respondent bank.

2.The petitioner has filed this writ petition challenging the auction notification issued by the respondent bank bringing the petitioner's property for sale for recovery of the educational loan availed by his sons, in which, the petitioner was also a co-applicant. Earlier, the borrowers approached this Court and filed writ petition in W.P.(MD) Nos.8951 and 8952 of 2014, challenging the proceedings initiated under SARFAESI Act. The writ petitions were dismissed by order dated 07.07.2015 on the ground that alternate remedy is available under Section 17 of the SARFAESI Act. The borrowers viz., the sons of the petitioners abandoned further the proceedings, did not file appeal. Now, the father is before this Court challenging auction notification.



3.It is stated that one of the borrowers has now secured employment in the Railway hospital. Though, it may be true that it would be difficult for the petitioner, who is a retired Transport Corporation employee to clear the entire dues, which according to the learned counsel for the respondent is Rs.5,11,177/- and Rs.7,78,572/- in respect of both the loans, there is no other option except to approach the respondent bank and agree to settle the loan.

4.For the above reasons, we cannot interfere with the impugned notification and accordingly, this writ petition is dismissed. However, this will not prevent the petitioner and his sons in approaching the respondent bank with proper proposal. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

+1cc to M/S.N.Dilip Kumar, Advocate SR.No. 53405

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and

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