



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.(MD)No.24481 of 2018
and
WMP(MD)Nos.22193 and 22194 of 2018

C.Valliammai

.. Petitioner

Vs.

The Authorised Officer,
REPCO Bank,
"Repco Tower"
No.33, North Usman Road,
T.Nagar,
Chennai - 600 017.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari thereby call upon the records pertaining to the impugned re-auction sale notice dated 02.11.2018 scheduling the auction to be held on 12.12.2018 and quash the same.

For Petitioner	: Mr.V.Prakash
	Senior Counsel for Mr.F.Deepak
For Respondent	: Mr.Pala Ramasamy

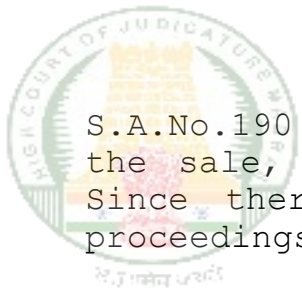
O R D E R

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

The challenge in this writ petition is to the re-auction notice dated 02.11.2018, proposing to sell the collateral security by public auction today.

2.Heard the learned Senior Counsel for the petitioner. Mr.Pala Ramasamy, learned counsel takes notice on behalf of the respondent. By consent, the writ petition is taken up for final disposal during the time of admission.

3.The respondent initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (hereinafter referred to as the SARFAESI Act). The notice under Section 13(2) of the Act was issued on 30.12.2014. The bank, having not satisfied with the reply given by the petitioner, issued a possession notice dated 06.10.2015. Thereafter, auction notice was issued on 09.03.2016. The said notice was challenged before the Debt Recovery Tribunal in



S.A.No.190 of 2016. Though the bank was permitted to proceed with the sale, confirmation was stayed by the Debt Recovery Tribunal. Since there were no bidders, the very sale was postponed. The proceedings are now pending before the Debt Recovery Tribunal.

4.While so, the bank issued a fresh sale notice dated 02.11.2018. The petitioner filed an interlocutory application before the Debt Recovery Tribunal in S.A.No.190 of 2016 praying for an interim direction to stay the re-auction, pursuant to the notice dated 02.11.2018 vide I.A.SR.Nos.14389 and 14390 of 2018.

5.It is the grievance of the petitioner that the Tribunal was not inclined to entertain the application on the ground that the subsequent sale notice should be challenged separately, as it is altogether a different transaction and a fresh cause of action to initiate fresh proceedings.

6.The challenge in the SARFAESI application in S.A.No.190 of 2016 was to the auction notice dated 09.03.2016. It is the admitted position that there were no bidders and as such the very sale was cancelled. The appeal in S.A.No.190 of 2016 challenging the sale notice dated 09.03.2016 is still pending. It is always open to the petitioner to file appropriate application before the Tribunal for amending the prayer for the purpose of challenging the re-auction notification dated 02.11.2018, which was issued during the currency of the SARFAESI application. The Tribunal ought to have taken up the application filed by the petitioner.

7.After hearing the learned Senior Counsel for the petitioner and the learned Standing Counsel for the respondent, we are of the view that interest of justice would be subserved by giving liberty to the petitioner to file appropriate application for amendment of the prayer in S.A.No.190 of 2016. Taking into account the subsequent events relating to the re-auction notice dated 02.11.2018, we grant time till 17 December, 2018 to file an application before the Tribunal for amendment of the prayer in S.A.No.190 of 2016. In case, any such application is made, the same shall be entertained by the Tribunal. The Tribunal shall dispose of S.A.No.190 of 2016 taking into account the subsequent events and appropriate orders should be passed. In so far as the sale which is scheduled to take place today, we permit the auction proceeding to proceed as scheduled. However, confirmation shall not be made till orders are passed by the Debt Recovery Tribunal in the SARFAESI application.

8.The writ petition is disposed of with the above direction. No costs. Consequently, WMP(MD)Nos.22193 and 22194 of 2018 are closed.

Sd/-
Assistant Registrar(RTI)



TO
Debt Recovery Tribunal
Madurai

+1cc to Mr.Pala Ramasamy Advocate in SR.No.99983

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W.P. (MD) No.24481 of 2018
12.12.2018

MJ
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