



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.08.2018
CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA
AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.17938 of 2018

and

W.M.P(MD)Nos.15821 and 15822 of 2018

V.Senthil Kumar

... Petitioner

Vs.

The Authorised Officer,
Central Bank of India,
Asset Recovery Branch,
48/9, Montieth Road,
First Floor, Egmore,
Chennai - 600 008.

... Respondent

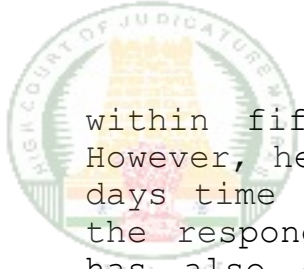
PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records of the respondent herein in his letter No.ARB:CHEN:2018-19:229, dated 16.07.2018 and quash the same and consequently, direct the respondent herein to receive the balance amount as per the confirmation letter given by the respondent in his letter No.ARB:CHEN:2018-19/029, dated 12.04.2018 and execute the sale deed in favour of the petitioner.

For Petitioner	: Mr.K.Hemakarthiskeyan
For Respondent	: Mr.N.Dilip Kumar

ORDER

This writ petition is directed against the impugned letter dated 16.07.2018 informing the petitioner that the amount of Rs.17,40,500/- (Rupees Seventeen Lakhs Forty Thousand and Five Hundred only) paid by him stands forfeited as per the terms and conditions of the e-auction sale notice dated 22.05.2018 and as per the provisions of the SARFAESI Act, 2002 and the Rules framed thereunder.

2. The petitioner was declared as a successful bidder for a sum of Rs.69,62,000/- (Rupees Sixty Nine Lakhs and Sixty Two Thousand only) in the e-auction conducted on 12.04.2018 for the purchase of the schedule mentioned property and bid confirmation was also conveyed through letter No.ARB/CHEN/2018-19/029, dated 12.04.2018. The petitioner having paid a sum of Rs.17,40,500/- (Rupees Seventeen Lakhs Forty Thousand and Five Hundred only) being 25% of the bid amount, he was liable to pay the balance amount of Rs.52,21,500/- (Rupees Fifty Two Lakhs Twenty One Thousand and Five Hundred only),



within fifteen days from the date of confirmation of the bid. However, he was unable to make the balance amount within the fifteen days time from the date of confirmation of the bid. On approaching the respondent bank for extension of time, the Authorised Officer has also granted extension of time till 25.06.2018 vide e-mail communication dated 22.06.2018. However, the extension of time granted by the Authorised Officer to pay the balance amount was not event availed off by the petitioner. Finally, the impugned communication dated 16.07.2018 has been issued forfeiting the entire amount paid by the petitioner as a successful bidder. After the impugned communication was issued, the petitioner approached the respondent bank offering to pay a sum of Rs.55,00,000/- (Rupees Fifty Five Lakhs only) including a reasonable amount towards penalty. While the said request was under consideration, the petitioner approached this Court by way of this writ petition challenging the impugned communication dated 16.07.2018.

3. After taking notice, the learned Counsel for the respondent submitted that the time limit for payment of the amount is only 90 days from the date of confirmation of the bid and that time limit also stood expired on 11.07.2018 and therefore, the respondent is unable to process the request of the petitioner for receipt of the balance amount and hence, the forfeiture is inevitable and unavoidable.

4. Heard the parties on both sides.

5. As the petitioner has been granted time by the Authorised Officer of the respondent and he has also given a representation dated 31.07.2018 through e-mail, requesting the respondent bank to accept a sum of Rs.55,00,000/- (Rupees Fifty Five Lakhs only) which is more than the balance amount, including the penalty for his non-payment before the crucial date, we find no impediment to direct the Authorised Officer of the respondent bank to accept the payment of Rs.55,00,000/- (Rupees Fifty Five Lakhs only), which is more than the balance bid amount.

6. Accordingly, the petitioner is directed to deposit a sum of Rs.55,00,000/- (Rupees Fifty Five Lakhs only) before the respondent bank within a period of one week from today and on payment of the said entire balance amount, the respondent bank shall issue the sale certificate to the petitioner thereafter.

7. With the above observations and directions, this writ petition stands disposed of. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/



To

+1cc to M/S.K.Hemakarathikeyan, Advocate SR.No. 78938

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rsb

JM/SKN RSK/SAR 1/16.08.2018/3P/2C