



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

and

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. (MD) No.17974 of 2018

and

W.M.P. (MD) Nos.15854 and 15855 of 2018

P.Muniasamy,
S/o.V.Paulchamy,
Proprietor,
M/s.J.P.Match Works and
M/s.Sri Boobhal Engineering Works,
Door No.4/346-C, Puliangulam Village,
Ennam Kasireddiapatti Road,
Sulakkaraimedu,
Virudhunagar - 626 003.

... Petitioner

Vs.

The Authorised Officer,
(SARFAESI Act, 2002)
REPCO Bank,
Plot No.1, Door No.129/1A-1C,
Lakshmi Colony, Madurai Road,
Virudhunagar - 626 001.

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the respondent bank in its impugned notice issued dated 22.06.2018 of Tender/Public Re-Auction Sale Notice under the SARFAESI Act and quash the same, consequently forbearing the respondent from selling the immovable properties of the situated in Virudhunagar District, Virudhunagar Joint No.II Sub Registration District, Virudhunagar Taluk at Puliyanakulam Village in Old Patta No.182, New Patta No.265, in Survey No.5, out of 3 acre 17 cents, in this Survey Number, 9 cents on the southern side and 1 acre 41 cents in Survey No.10, totally 1 acre 50 cents. Hectare 0.40.0 in sub division patta No.119 in Survey No.5/1, Hectare 0.88.5, in Survey No.5/2, Hectare 0.57.0 in Survey No.10 along with building and super structures, fixtures and erections thereon are part and parcel of this scheduled property by auction.

For Petitioner : Mrs.S.Mahalakshmi

<https://hcservices.ecourts.gov.in/hcservices/> For Respondent : Mr.Pala Ramasamy



ORDER

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

This Writ Petition is filed challenging the impugned Tender/Public Re-Auction Sale Notice under SARFAESI Act, dated 22.06.2018, issued by the respondent.

2.Heard Mrs.S.Mahalakshmi, learned counsel appearing for the petitioner and Mr.Pala Ramasamy, learned counsel appearing for the respondent.

3.This Court passed a detailed conditional order which is given as under:

"The learned counsel appearing for the petitioner would submit that out of Rs.1,57,00,000/- (Rupees One Crore Fifty Seven Thousand Only) borrowed from the respondent bank, the petitioner has paid a sum of Rs.44,00,000/- (Rupees Forty Four Lakhs Only). However, there was a default. Pursuant thereto, the respondents have initiated SARFAESI proceedings under Section 13(2) followed by Section 13(4). Thereafter, the petitioner approached the Debts Recovery Tribunal. Subject to payment of the first installment of Rs.12,65,000/- directly to the respondent's bank on or before 28.05.2018 and another sum of Rs.12,65,000/- on or before 27.06.2018 and the third installment of Rs.12,65,000/- to the respondent bank on or before 27.07.2018, the learned Tribunal, passed an ad-interim stay not to confirm the sale till 28.07.2018. However, till date, the sale has not been taken place.

2.The learned Senior Counsel appearing for the petitioner would further submit that the petitioner has not paid any one of the aforementioned installments, however, the petitioner is prepared to settle the amount by way of One Time Settlement, for which, a detailed letter was sent to the Chairman of the respondent bank on 30.05.2018. If the offer of One Time Settlement is accepted, the property in question, that could be sold for more than Rs.2 Crores, would be sold for reasonable price. Consequently, neither the petitioner nor the respondent bank would be put to any problem. Accordingly, to show their *bona fide*, the petitioners have sought for two weeks time. They have also sought for time to sit across the table with the respondent bank to formalise the One Time Settlement.

3.Mr.Pala.Ramasamy, the learned standing counsel for the respondent bank submitted that when the petitioner miserably failed to show his *bona fide*, by making the payment of first installment of Rs.12,65,000/- to the respondent bank, on or before 28.05.2018 ; likewise, the second installment of Rs.12,65,000/- on or before 27.06.2018 and the third installment of Rs.12,65,000/- on or before 27.07.2018, as ordered by the learned Tribunal, keeping S.A.No.77 of 2018 pending, this Writ Petition should not be entertained.



4.As the petitioner is prepared to settle the money through One Time Settlement, this Court, grants two weeks time to show the *bona fide* of the petitioner by paying all the three installments. It is stated that the total amount of three installments is Rs.37,95,000/- and that the petitioner has already paid a sum of Rs.4,00,000/-. The order, passed by the learned Judge, Debts Recovery Tribunal, Madurai not to confirm the sale, will continue till further orders.

5.Post the matter on 28.08.2018."

4.In the penultimate paragraph of the order, two weeks time was given to the petitioner to show his *bona fide* by paying all the three instalments which was not made as per the order passed by the Debts Recovery Tribunal and the total amount of the three instalments is Rs.37,95,000/- (Rupees Thirty Seven Lakhs and ninety five thousand only) and the petitioner has paid only a sum of Rs.4,00,000/- (Rupees Four Lakhs only). The two weeks time given to the petitioner to make all the three instalments also has not been made use of by the petitioner. Therefore, we are unable to see any reason to entertain this Writ Petition. Hence, this Writ Petition fails and accordingly, the same is dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

SD

ASSISTANT REGISTRAR (CRL SIDE)

TRUE COPY

SUB ASSISTANT REGISTRAR (CS IV)

SRM

To

1CC TO MR. PALA RAMASAMY, ADVOCATE SR 81051
1CC TO M/S.S. MAHALAKSHMI, ADVOCATE SR 81239

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