

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2019

CORAM :

THE HON'BLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.28074 of 2019

P.Bhuvaneswari

.. Petitioner

-vs-

1. M/s.Tamilnad Mercantile Bank Ltd.,
rep. by its Manager,
Thiruvallur Branch,
No.120, J.N.Road,
Thiruvallur-602 001.
2. Authorised Officer,
M/s.Tamilnad Mercantile Bank Ltd.,
Thiruvallur Branch,
No.120, J.N.Road,
Thiruvallur-602 001.
3. The District Collector,
Chennai District,
Chennai-1.
- 4.The Tahsildar,
Ambattur,
Chennai District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned communication dated 14.12.2018 in Ref.No.Che.Rgn.SARFAESI Cors.104/2018-19 sent by the 2nd respondent and quash the same so far as non-consideration of the petitioner's One Time Settlement Proposal is concerned; consequently direct the respondents 1 and 2 to reconsider the petitioner's OTS proposal.

For Petitioner

: Mr.R.Neelakandan

For Respondents

: Mr.S.N.Parthasarathi
Government Advocate
for respondent Nos.3 and 4

ORDER

(Order of the Court was made by The Hon'ble Acting Chief Justice)

The petitioner/borrower is aggrieved by the rejection of the One Time Settlement (OTS) proposal vide a communication dated 14.12.2018 issued by the first respondent Bank.

2. The petitioner, Mrs.P.Bhuvaneswari, had earlier approached this Court by way of W.P.No.33207 of 2018 (P.Bhuvaneswari v. M/s.Tamilnad Mercantile Bank Ltd., rep. by its Manager, Thiruvallur Branch, No.20, J.N.Road, Thiruvallur-602 001 and another), which was disposed of by a Co-ordinate Bench of this Court on 17.12.2018 relegating the first respondent Bank for consideration of her OTS proposal. As far as the sale notice dated 30.11.2018 is concerned, it was held that the petitioner was to approach the Debts Recovery Tribunal under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002.

3. The petitioner, in her OTS proposal has offered to pay a sum of Rs.11,58,345.91 vide para 5 of her communication dated 06.12.2018 as against the outstanding dues of Rs.35,56,946.21. Meanwhile, the first respondent Bank again issued the sale notice dated 25.07.2019. In these circumstances, the petitioner has approached this Court. The auction for the said sale notice dated 25.07.2019 was to take place on 30.08.2019.

4. The learned counsel for the petitioner, Mr.R.Neelakandan, however, submits that the property has not been auctioned.

5. Having heard the learned counsel for the petitioner, we direct the petitioner to deposit a sum of Rs.20.00 lakhs (Rupees Twenty Lakhs only) approximately 50% of the outstanding dues of Rs.40,71,081.21 as per the sale notice dated 25.07.2019 with the first respondent Bank within a period of two weeks from today and subject to further condition that auction in pursuance of the said sale notice has not taken place on 30.08.2019 as was represented today by the learned counsel for the petitioner. The first respondent Bank may consider the OTS proposal of the petitioner and dispose of the same in accordance with law. It is made clear that no extension of time shall be granted to the petitioner under any circumstances.

6. With the above observation and direction, the writ petition is disposed of. No costs. Consequently, W.M.P.No.27694 of 2019 is closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

bbr

To:

- 1.The Manager,
M/s.Tamilnad Mercantile Bank Ltd.,
Thiruvallur Branch,
No.120, J.N.Road,
Thiruvallur-602 001.
 - 2.The Authorised Officer,
M/s.Tamilnad Mercantile Bank Ltd.,
Thiruvallur Branch,
No.120, J.N.Road,
Thiruvallur-602 001.
 - 3.The District Collector,
Chennai District,
Chennai-1.
 - 4.The Tahsildar,
Ambattur,
Chennai District.
- +1 CC to Mr.R.Neelakandan, Advocate sr 81449.

सत्यमेव जयते

W.P.No.28074 of 2019

RK (CO)
SP (14/10/2019)

WEB COPY