

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM :

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

W.P.No.27447 of 2019

Dhanraj

.. Petitioner

Vs

The Authorised Officer
Indian Overseas Bank
Karaikal Branch
No.163, Church Street
Karaikal - 609 602.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issue of writ of certiorarified mandamus to call for the records of the respondent pertains to the e-auction sale notice dated 29.08.2019, to quash the same and to consequently direct the respondent not to proceed against the petitioner till disposal of the OA No.270 of 2019 on the file of Debts Recovery Tribunal - III, Chennai.

For Petitioner : Mr.P.R.Thiruneelakandan

ORDER

(Order of the Court was made by DR.VINEET KOTHARI,J.)

The legal heir of the borrower, Mr.Dhanraj, son of Mr.Sandanasamy, Puducherry, has approached this Court by way of present writ petition on the ground that the respondent/Indian Overseas Bank, Karaikal Branch, has issued the e-auction sale notice for sale of the immovable property under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002. As per the said notice, auction was to take place on 16.9.2019 between 11 AM and 12 Noon. The said date has gone by yesterday.

2. The learned counsel for the petitioner submitted that O.A.No.270 of 2019 filed by the respondent/bank is still pending before the Debts Recovery Tribunal-III, Chennai, and during the pendency of the said O.A., summons have been received by the petitioner and other legal heirs of the borrower only now. The

summons addressed to him, which is produced before this Court, requires him to appear on 11.7.2019. He, therefore, submitted that the respondent/bank ought not to have issued the e-auction notice in the meanwhile.

3. Having heard the learned counsel for the petitioner, we are satisfied that the petitioner can approach the learned Debts Recovery Tribunal against the said e-auction sale notice under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, which permits any person aggrieved by the measures taken by the secured creditor under Section 13(4) of the Act to file an application before the Debts Recovery Tribunal.

4. In view of the effective alternative remedy available to the petitioner and as the Debts Recovery Tribunal-III, Chennai, is seized of the matter, we are not inclined to interfere. In any case, since the date of auction has gone by and the status of the proceedings which took place on 16.9.2019 is not known to the learned counsel for the petitioner, we refrain from interfering with the impugned e-auction sale notice. However, liberty is granted to the petitioner to approach the Tribunal with appropriate application, which may be dealt with in accordance with law.

The writ petition is disposed of accordingly. Consequently, W.M.P.No.26916 of 2019 is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

sasi

To:

The Authorised Officer
Indian Overseas Bank
Karaikal Branch
No.163, Church Street
Karaikal - 609 602.

+1cc to Mr.P.R.Thiruneelakandan, Advocate SR.80550

W.P.No.27447 of 2019

Rgn (CO)
CB(01/11/2019)