

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.34772 of 2018
and W.M.P.Nos.40323 & 40324 of 2018

1.Umamaheswari
2.Sangeetha ... Petitioners

Vs.

1.The Authorized Officer,
Bank of Baroda,
Avinashi Road Branch,
774, P.N. Road,
Sri Kannan Hospital Compound,
Near New Bus Stand, Tirupur District.
2.M/s.Anbu Textiles (P) Ltd.,
rep by its Director B.Anbuvel
No.59/11, South Avanimool Street,
Madurai - 625 001.
3.P.Mohideen Abdul Kadar
4.P.Uvais Meeran
5.The Presiding Officer,
Debt Recovery Appellate Tribunal,
Chennai. ... 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 order in AIR (SA).No.490 of 2018 dated 08.11.2018 on the file of the Debt Recovery Appellate Tribunal, Chennai confirming the order dated 18.05.2018 made in I.A.No.1213 of 2018 in S.A.No.197 of 2018 on the file of the Debts Recovery Tribunal, Coimbatore insofar as the condition of depositing a sum of Rs.5.68 crores is concerned and to quash the same and consequently set aside the sale certificate dated 04.10.2018 issued to the respondents 3 & 4 in respect of the property bearing Door No.252 (Old) and 116 (new) T.S.No.146, S.Ward No.4, South Marret Street, Madurai measuring an extent of 1000 sq.ft.

For Petitioners : Mr.A.E.Ravichandran

O R D E R

(Order of the Court made by M.DURAISWAMY,J.)

The petitioners have filed the above Writ Petition to issue a Writ of certiorarified mandamus to call for the records pertaining to the order in AIR (SA).No.490 of 2018 dated 08.11.2018 on the file of the Debt Recovery Appellate Tribunal, Chennai confirming the order dated 18.05.2018 made in I.A.No.1213 of 2018 in S.A.No.197 of 2018 on the file of the Debts Recovery Tribunal, Coimbatore insofar as the condition of depositing a sum of Rs.5.68 crores is concerned and to quash the same and consequently set aside the Sale Certificate dated 04.10.2018 issued to the respondents 3 & 4 in respect of the property bearing Door No.252 (Old) and 116 (new) T.S.No.146, S.Ward No.4, South Marret Street, Madurai measuring an extent of 1000 sq.ft.

2.It is the case of the petitioners that the condition imposed by the Debts Recovery Tribunal directing them to pay a sum of Rs.5.68 crores in two installments is onerous for the reason that the reserve price of the 3rd item of the property is only Rs.90,94,000/- over which the petitioners are claiming right.

3.It is pertinent to note that the total outstanding amount payable by the debtors to the respondent - Bank is more than Rs.16.5 crores. Therefore, the petitioners were directed to make a payment of Rs.5.68 crores in two installments. If the value of the property is only Rs.90,94,000/-, the petitioners could have very well participated in the auction and purchased the property. However, they did not do so. Challenging the conditional order passed by the Debts Recovery Tribunal, the petitioners preferred an appeal before the Debt Recovery Appellate Tribunal, Chennai, which, after considering the case of both parties, rightly dismissed the appeal. While dismissing the appeal, the Appellate Tribunal has rightly observed that the petitioners have filed the appeal only to gain time and there is no illegality in the order passed by the Debts Recovery Tribunal. In these circumstances, we are not inclined to interfere with the order passed by the Debt Recovery Appellate Tribunal. The order passed by the Debt Recovery Appellate Tribunal is just and proper.

3.Insofar as the Sale Certificate is concerned, the remedy available to the petitioners is only before the Debts Recovery Tribunal and not by way of a Writ Petition under Article 226 of the Constitution.

4.For the reasons stated above, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS viii)

//True Copy//

Sub Assistant Registrar

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To

1.The Authorized Officer,
Bank of Baroda,
Avinashi Road Branch,
774, P.N. Road,
Sri Kannan Hospital Compound,
Near New Bus Stand,
Tirupur District.

2.The Presiding Officer,
Debt Recovery Appellate Tribunal,
Chennai.

+1cc to Mr. A.E.Ravichandran, Advocate SR.No. 2194

W.P.No.34772 of 2018
and W.M.P.Nos.40323 & 40324 of 2018

A.SK(05/02/2019)

सत्यमेव जयते
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