



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) .No.4523 of 2019
and
W.M.P. (MD) .Nos.3603 and 3604 of 2019

Sindhu

... Petitioner

Vs.

1.The Chief Manager / Authorised Officer,
Syndicate Bank,
Mulagumodu Branch,
Anitha Nivas,
Mulagumoodu,
Kanyakumari District.

2.The Regional Manager (PAF),
Syndicate Bank,
Bye Pass Road,
Ponmeni,
Madurai 625 010.

... Respondents

Prayer:-Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice of possession and sale by the first respondent in his proceedings in Ref.No.DN/50070988/6183/1, dated 03.07.2017 and 21.04.2018 and quash the same as illegal and consequently direct the respondents to revive the loan Account No.61831400001114 on the file of the first respondent.

For Petitioner : Mr.K.P.Krishnadoss

For Respondents : Mr.Pala Ramasamy

O R D E R

(Order of the Court was made by **K.KALYANASUNDARAM, J.**)

<https://hcservices.ecourts.gov.in/hcservices/>

This writ petition has been filed challenging the sale notice



issued by the first respondent dated 19.12.2018, fixing the auction date on 01.02.2019.

2. It is the submission of the learned Standing counsel for the respondents that since no bidders participated in the auction, the auction could not be conducted on that day.

3. It is further noted that in a recent judgment reported in **2018 SCC Online SC 2349 (ICICI Bank Limited vs. Umakanta Mohapatra)**, the Hon'ble Apex Court has held that the writ petition is not maintainable. The relevant paragraph would run thus:

"4. The writ petition itself was not maintainable, as a result of which, in view of our recent judgment, which has followed earlier judgments of this Court, held as follows:-

"18. We cannot help but disapprove the approach of the High Court for reasons already noticed in Dwarikesh Sugar Industries Ltd. v. Prem Heavy Engineering Works (P) Ltd., (1997) 6 SCC 450, observing :-

"32. When a position, in law, is well settled as a result of judicial pronouncement of this Court, it would amount to judicial impropriety to say the least, for the subordinate courts including the High Courts to ignore the settled decisions and then to pass a judicial order which is clearly contrary to the settled legal position. Such judicial adventurism cannot be permitted and we strongly deprecate the tendency of the subordinate courts in not applying the settled principles and in passing whimsical orders which necessarily has the effect of granting wrongful and unwarranted relief to one of the parties. It is time that this tendency stops."

4. In the light of the above fact, the writ petition is dismissed as not maintainable. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

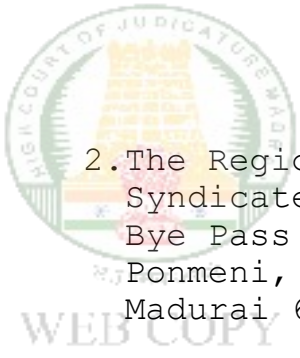
Assistant Registrar(Crl.Side)

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Sub Assistant Registrar(CS)

To

1.The Chief Manager / Authorised Officer,
Syndicate Bank,
Mulagumodu Branch,
Ananthapur District,
Mulagumoodu,
Kanyakumari District.



2.The Regional Manager (PAF),
Syndicate Bank,
Bye Pass Road,
Ponmeni,
Madurai 625 010.

+1 CC to M/s.K.P.KRISHNADOSS,Advocate SR-52921
+1 CC to M/s.PALA.RAMASAMY,Advocate SR-53411

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