



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2019

CORAM:

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

AND

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P (MD) NO.692 OF 2019

and

W.M.P (MD) No.580 of 2019

K.Rajendran

:Petitioner

.vs.

1.The Recovery Officer,
Debts Recovery Tribunal,
Madurai.

2.The Branch Manager,
State Bank of India,
Chinnamanur Branch,
Chinnamanur,
Theni District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the impugned proclamation of Sale Notice in R.P.No.465 of 2018 in DRC No.465 of 2018, dated 17.12.2018 issued by the first respondent and to quash the same insofar as the Petitioner is concerned, as illegal and consequently, to forbear the respondents from proceeding with the proclamation of sale dated 18.01.2019 till the disposal of I.A.No.2947 of 2018 in O.A.No.983 of 2015, pending on the file of the Debt Recovery Tribunal, Madurai.

For Petitioner

:Mr.M.Maran

For Respondent-2

:Mr.N.Dilip Kumar
Standing Counsel

O R D E R

[Order of the Court was made by **K.RAVICHANDRABAABU.,J.**]

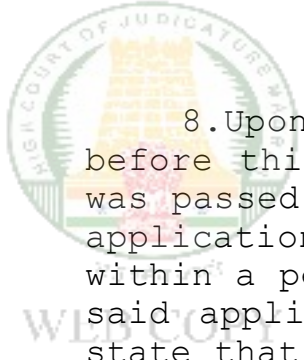
Being aggrieved against the issuance of notice for drawing
<https://hservices.pccmrts.gov.in/hservices/serve.html> for sale, dated 17.12.2018, this Writ Petition is
filed challenging such notice issued by the first respondent, with

2. Heard both sides.

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5.The learned counsel for the second respondent/Bank is not disputing the said fact. However, pending consideration of the said application before the Debts Recovery Tribunal, Madurai, notice for proclamation of sale was issued on 17.12.2018, which is put to challenge in this Writ Petition.

7. The learned counsel for the second respondent/Bank, though admitted the fact that I.A.No.2947 of 2018 is still pending, however, submitted that the Petitioner and his brothers having defaulted in repaying the loan amount, are not entitled to seek indulgence from this Court, as against the impugned notice without showing their bona-fide by making some payment, even for the purpose of directing the Debts Recovery Tribunal, Madurai to take up the I.A.No.2947 of 2018 and decide the same on merits and in accordance with law.



8. Upon hearing both sides and perusing the materials placed before this Court, it is evident that though an ex-parte decree was passed against the Petitioner on 27.10.2018, he has filed an application to set aside the same on 24.11.2018 itself, admittedly within a period of thirty days. It is also not in dispute that the said application is still pending for consideration. Needless to state that the Debts Recovery Tribunal, Madurai has to take up the said application and dispose the same on merits and in accordance with law, so as to make the parties to understand as to where do they stand in their respective claim. At the same time, this Court is of the view that the Petitioner who has claimed to be a defaulter also should be put on some terms for remitting the matter back to the Debts Recovery Tribunal, Madurai, for disposal of the said I.A.

9. Accordingly, this Writ Petition is disposed of, in the following terms:

(a) the Petitioner shall pay a sum of Rs.3 lakhs (Rupees three lakhs only) to the second respondent/Bank within a period of four weeks from the date of receipt of a copy of this order.

(b) on making such payment and filing proof of the same, the Debts Recovery Tribunal, Madurai will take up I.A.No.2947 of 2018 and dispose of the same on merits and in accordance with law, after hearing both parties within a period of four weeks thereafter.

(c) if the Petitioner fails to make the payment of Rs.3 lakhs within the time stipulated supra, the second respondent/Bank is at liberty to proceed with the impugned notice.

(d) if the Petitioner makes the payment, as directed supra, the impugned proclamation of sale notice, dated 17.12.2018 shall be kept in abeyance, till an order is passed by the Debt Recovery Tribunal in I.A.No.2947 of 2018 in O.A.No.983 of 2015.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Recovery Officer,
Debts Recovery Tribunal,
Madurai.

2.The Branch Manager,
State Bank of India,
Chinnamanur Branch,
Chinnamanur,
Theni District.

+1 CC to Mr.M.MARAN, Advocate SR-74712.

+1 CC to Mr.N.DILIP KUMAR, Advocate SR-74964.

ORDER MADE IN
W.P (MD) NO.692 OF 2019
and
W.M.P (MD) No.580 of 2019

11.07.2019

CS (24.07.2019) 4P 5C