BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **16.09.2019**
CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE THARANI

W.P.(MD)No.19743 of 2019
and
W.M.P.(MD)Nos.16233 and 16234 of 2019

M.Esakkiappan ... Petitioner

Vs.

1. The Authorized Officer,
   Indian Overseas Bank,
   Regional Office,
   No.131, East Car Street,
   Tirunelveli.

2. The Branch Manager,
   Indian Overseas Bank,
   Nanguneri Taluk,
   Tirunelveli. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned mega e-auction notice published in the Dailythanthi newspaper dated 16.08.2019 by the first respondent as far as the second item of schedule and quash the same as illegal and further direct the first respondent rebate the penal interest and other charges of the loan availed by the petitioner in the second respondent Bank and give an opportunity to repay the loan amount in instalments.

For Appellant : Mr.V.Meenakshisundaram
For Respondents : Mr.N.Dilip Kumar

JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.V.Meenakshisundaram, learned counsel for the petitioner and Mr.N.Dilip Kumar, learned counsel for the respondents.

2. The petitioner seeks to quash the e-auction notice published by the respondent Bank in the Daily Thanthi on 16.08.2019.

The petitioner also seeks for a direction to the second respondent Bank to grant rebate in the penal interest and other charges to enable him to effect one time settlement. The petitioner is before this Court seeking to save his residential property. The petitioner does not dispute the fact that he has borrowed a loan. If the petitioner has borrowed loan, it is his duty to repay the same and admittedly the petitioner is a defaulter and the respondent Bank cannot be found faulted for taking steps to recover the loan.

3. The learned counsel appearing for the respondent Bank, on instructions, would submit that for the amount of Rs.1,95,000/- the respondent is willing to offer one time settlement of Rs.1,50,000/-. He would further submit that the petitioner shall pay 50% of the amount today and pay the balance amount within a period of two weeks from today.

4. The learned counsel for the petitioner submitted that his client has got bankers cheque for a sum of Rs.50,000/-, dated 13.09.2019 drawn in favour of the second respondent Bank and he will present this bankers cheque to the second respondent Bank before 05.00 p.m., today.

5. The learned counsel for the petitioner submits that two weeks period is too short for the petitioner to made ready the balance amount of Rs.1,00,000/- and seeks some indulgence of this Court.

6. Considering the fact that this Court has been constantly refusing to exercise the jurisdiction in the matters pertaining to such recovery proceedings, as the borrowers have an effective remedy before the Debt Recovery Tribunal, we cannot issue any such positive direction. Considering the fact that the petitioner is willing to settle the entire amount, the second respondent may use his discretion and grant reasonable time to the petitioner to pay the remaining Rs.1,00,000/-. The second respondent bank shall notify in their website about the direction issued by this Court, so that the if any borrower bid for the property would know that the petitioner has approached Bank for settlement of the dues.

7. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Authorized Officer,
Indian Overseas Bank,
Regional Office,
No.131, East Car Street,
Tirunelveli.

2.The Branch Manager,
Indian Overseas Bank,
Nanguneri Taluk,
Tirunelveli.

+1 CC to Mr.D. NALLATHAMBI, Advocate (SR-86770[F] dated 16/09/2019)
+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-86830[F] dated 16/09/2019)

ORDER MADE IN
W.P.(MD)No.19743 of 2019
16.09.2019

ta
MK (25.10.2019) 3P 5C