



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2019

CORAM

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**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI**

**W.P. (MD)No.20729 of 2019
and
W.M.P. (MD)No.17348 of 2019**

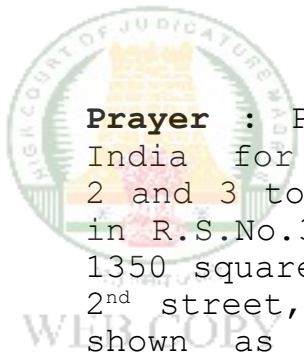
M.Suthandhira Mala

... Petitioner

Vs.

- 1.The Regional Manager,
Regional Office,
Tamilnadu Mercantile Bank Ltd.,
Besant Road,
Chinnachockkikulam,
Madurai-625 002.
- 2.The Authorised Officer,
Tamilnadu Mercantile Bank Ltd.,
No.51, East Aavani Moola Veethi,
Madurai-625 001.
- 3.The Branch Manager,
Tamilnadu Mercantile Bank Ltd.,
No.51, East Aavani Moola Veethi,
Madurai-625 001.
- 4.M/s Selvarani Impex,
represented by its Partners,
S.Surulivel, S.Siva, S.Selvarani.
- 5.S.Surulivel
- 6.S.Siva
- 7.S.Selvarani
- 8.B.Kumar
- 9.P.M.Palanikumar,
Tamilnadu Mercantile Bank Ltd.,
Panel Advocate, Gandhi Nagar Main Road,
Batlagundu,
Dindigul District-624 202.

... Respondents



Prayer : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents 2 and 3 to conduct the re-auction in respect of the house situated in R.S.No.376/2 and 376/3, Plot No.1/7, Ward No.17 to an extent of 1350 square feet constructed house situated in the building society 2nd street, Gandhi Nagar Extensiion, Batlagundu Town Panchayat and shown as item No.1 of the Public bit auction notice dated 02.08.2019.

For Petitioner : Mr.K.K.Ramakrishnan
for Mr.V.Sasikumar

For Respondents: Mr.N.Dilip Kumar for R.1 to R.3

ORDER

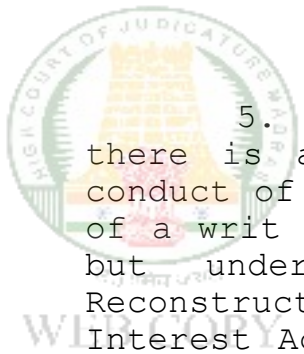
(Order of the Court was delivered by **T.S.SIVAGNANAM,J.**)

Heard Mr.K.K.Ramakrishnan, learned Counsel for the petitioner and Mr.N.Dilip Kumar, learned Counsel accepting notice on behalf of the respondents 1 to 3.

2. The petitioner is a third party who stated to have responded to the auction notice issued by the respondent bank bringing an immovable property for sale owned by the seventh respondent. The case of the petitioner is that she is residing in the property which was put up for sale and she was ready and willing to participate in the sale conducted by the respondent bank and in fact, Demand Draft was ready. However, the respondent bank had not allowed the petitioner to participate in the auction, but surreptitiously sold the property in favour of the ninth respondent. With these facts, the petitioner seeks to set aside the sale and bring the property in R.S.No.376/2 and 376/3, Plot No.1/7, Ward No.17 to an extent of 1350 square feet, situated at 2nd street, Gandhi Nagar Extensiion, Batlagundu Town Panchayat, for re-auction to enable the petitioner to participate in such auction.

3. The learned Counsel for the respondents 1 to 3 has produced a document to substantiate his submission that there were two bidders, namely, the petitioner and the ninth respondent, who came for the auction, but, unfortunately, the petitioner did not make an offer as she would not mobilise the funds, whereas the ninth respondent had mobilised the funds and the auction sale was conducted on 21.08.2019 at 12.00 p.m., and the sale was confirmed in favour of the ninth respondent.

4. Further, the learned Counsel for the respondents 1 to 3 would submit that the petitioner is a chronic defaulter and there are several defaulted loan accounts for which immovable property was brought for sale and the outstanding loan amount is more than Rs.9 Crores.



5. In our considered view, if according to the petitioner, there is any error in the procedural aspect with regard to the conduct of auction sale, the remedy of the petitioner is not by way of a writ petition under Article 226 of the Constitution of India, but under the provisions of the the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, before the appropriate forum and therefore, we cannot grant any relief in this writ petition on the facts set by the writ petition.

6. Accordingly, this writ petition fails and the same is dismissed as not maintainable. No costs. Consequently, the connected writ miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-90043[F] dated 27/09/2019)

+1 CC to M/s.V.SASI KUMAR, Advocate (SR-90094[F] dated 27/09/2019

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