BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.10.2019
CORAM:

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

W.P.[MD]No.22345 of 2019
and
W.M.P.[MD]Nos.19109 & 19110 of 2019

D.Murugesan : Petitioner

Vs.

1. The General Manager,
   Indian Overseas Bank,
   Head Office,
   No.763, Anna Salai,
   Chennai - 600 002.

2. The Chief Manager Cum Authorized Officer,
   Indian Overseas Bank,
   Thanjavur Main Branch,
   No.1604, South Main Street,
   Thanjavur - 613 009. : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, praying to call for the records pertaining to the impugned E-Auction Sale Notice dated 26.09.2019 issued by the second respondent and the sale is scheduled to be held on 25.10.2019 and quash the same and consequently directing the respondents to furnish the petitioner's details of payments made with the second respondent in the Housing Loan Account No.08803501200008.

For Petitioner : Mr.K.Ashok Kumar Ram
For Respondents : Mr.N.Dilip Kumar

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

2.Heard Mr.K.Ashok Kumar Ram, learned Counsel appearing on behalf of the petitioner and Mr.N.Dilip Kumar, learned Counsel appearing on behalf of the respondents.

3.The petitioner is aggrieved by the sale notice issued by the respondent Bank for recovery of loans availed by the petitioner in his name as well as in the name of partnership firm and in the name of the Proprietor.

4.According to the learned Counsel appearing for the petitioner, the property should not be brought for sale because the housing loan has been properly serviced by the petitioner and a substantial amount has been paid by the petitioner on 03.02.2016, 27.02.2016, 16.09.2016 and 06.05.2017. Thereafter, a sum of Rs.10,00,000/- also has been paid.

5.However, the petitioner has borrowed more than one loan from the respondent Bank. Therefore, it cannot be stated that the other two loans cannot be clubbed together. All the three loans have been declared as NPA. In the housing loan there is an outstanding of Rs.39,29,597.20/-, the loan availed in the name of the partnership firm has outstanding of Rs.1,48,74,000/- and the loan availed in the name of the Proprietor concerned M/s.Sri Sayee Enterprises has an outstanding of Rs.37,71,000/-.

6.In such circumstances, we cannot exercise our writ jurisdiction. Accordingly, the Writ Petition is dismissed. However, this will not prevent the petitioner from availing the remedies available to him under the provisions of the SARFAESI Act or in the alternative approach the respondent Bank by a proper proposal for One Time Settlement. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

+1 CC to Mr.K.ASOK KUMAR RAM, Advocate (SR-93671[F] dated 22/10/2019)
+1 CC to M.N.DILIP KUMAR, Advocate (SR-93755[F] dated 23/10/2019)

Order made in
W.P.[MD]No.22345 of 2019
Dated: **22.10.2019**

MR
MK (11.11.2019) 2P 3C