IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2020

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.P.No.13021 of 2020
and
W.M.P.No.16131 of 2020

P.Manickaraj ... Petitioner

Vs.

1.Authorised Officer,
Tamil Nadu Mercantile Bank Ltd.,
364, Dr.Nanjappa Road,
Opp. to V.O.C. Park,
Coimbatore - 641 018.

2.M/s.Sumathi Tex,
Represented by its Proprietrix,
Sumathi.S.,
No.340, Behind Venkatalakshmi Mahal,
Karumathampatty,
Coimbatore - 641 659.

3.S.Sumathy ... Respondents

[R2 and R3 impleaded vide order dated 24.09.2020, in W.M.P.16766 of 2020 in W.P.No.13021 of 2020]

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondent to receive the remaining 75% of the bid amount i.e. Rs.66,82,500/- from the petitioner and further direct the respondent to execute the sale deed for the auctioned property dated 22.1.2020 in favour of the petitioner.

For Petitioner : Mr.N.Ravishankar Vallatharasu

For R1 : Mr.V.Chandrasekaran
Senior Panel Counsel

ORDER

(Order of the Court was made by M. SATHYANARAYANAN, J.)

The petitioner is the successful auction purchaser in respect of a sale of Secured Assets, i.e. land and commercial building at Shop Site No.1B2, Sf. Nos.310/1 Part and 310/2 Part, with superstructure.

2.The learned counsel appearing for the petitioner would submit that, on becoming a successful bidder, the petitioner has remitted 15% of the bid amount of Rs.13,37,500/-, and he was directed to make good the balance amount of Rs.66,82,500/- within 15 days from the date of letter, dated 22.01.2020, so as to enable them to confirm the auction sale, with default clause.

3.The auction purchasers made a challenge to the sale proceedings and it was entertained by the Debts Recovery Tribunal, Madurai, in S.A.No.30 of 2020 and granted conditional order of interim stay, however, the borrower did not comply with the conditional interim order.

4.The petitioner, thereafter, received one more letter, dated 21.03.2020, from the respondent Bank, confirming the sale in his favour, with further direction to pay the balance sale consideration of Rs.66,82,500/- within 15 days from the confirmation of the sale, with default clause. It is also brought to the knowledge of this Court that the borrower has failed to pay the first installment as to the compliance of the conditional order in S.A.No.30 of 2020, passed by the Debts Recovery Tribunal, Madurai. He did not comply with the rest of the said conditions.

5.The primordial submission made by the learned counsel appearing for the petitioner is that, on account of the sudden outbreak and onset of Covid-19 Pandemic, commercial and business activities have almost come to a standstill, and therefore, it was extremely difficult to mobilise the funds, so as to enable the petitioner to make good the balance sale consideration of Rs.66,82,500/-. In this regard, he has submitted a representation, dated 29.08.2020, and the same came to be rejected by the respondent Bank, vide communication dated 29.08.2020. The learned counsel appearing for the petitioner would submit that, in the light of the genuine reasons assigned, the respondent Bank should have exhibited equity and indulgence, so as enable the petitioner to make good the balance sale consideration, and has also drawn the attention of this Court to the order, dated 19.08.2020, made in W.P.(MD)No.9538 of 2020 [M.Shibu v. The Reserve Bank of India and The Authorized Officer, Tamil Nadu Mercantile Bank Ltd., Arumanai Branch, Kanyakumari District].

6.Per contra, Mr.V.Chandrasekaran, learned Standing Counsel appearing on behalf of the respondent Bank, would submit that, since the terms and conditions stipulate as to the deposit of the balance sale consideration within 15 days from the date of confirmation of the sale, with default clause, the petitioner is bound to comply with the same, and since he did not do so, the request made by him for extension of time came to be rejected rightly.

7.This Court has carefully considered the rival submissions and also perused the materials placed before it.

8.This Court can take judicial notice of the fact that, on sudden outbreak and onset of Covid-19 Pandemic, almost all activities came to a standstill in the light of the lockdown declared by the Central as well as State Government by invoking the provisions of the Disaster Management Act, 2005. The petitioner has exhibited his bona fide by making good the initial deposit, and in the light of the above facts which resulted in slowing down of the economic and commercial activities, he was finding it difficult to make good the balance sale consideration, and now, he is willing to pay the balance sale consideration, if a reasonable time is granted.

9.In the light of the above facts and circumstances, this Court is of the considered view that the petitioner is entitled to cause indulgence from the respondent Bank. In the result, this writ petition is disposed of and the petitioner is permitted to pay the balance sale consideration of Rs.66,82,500/- with simple interest @ 6% p.a. from 21.03.2020 (date of default on the part of the borrower to comply with the conditional order, passed in S.A.No.30 of 2020 on the file of Debts Recovery Tribunal, Madurai) till 21.12.2020 (date on which the auction purchaser undertakes to make good the balance sale consideration of Rs.66,82,500/- with the respondent Bank).

10.It is made clear that, in the event of the petitioner/auction purchaser failing to comply with this order, it is open to the respondent Bank to proceed further in accordance with law, in respect of the Secured Assets of the borrower. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mkn

To

The Authorised Officer,
Tamil Nadu Mercantile Bank Ltd.,
364, Dr.Nanjappa Road,
Opp. to V.O.C. Park,
Coimbatore - 641 018.

+1 cc to Mr.N.Ravishankar Vallatharasu,Advocate Sr.No.39460

W.P.No.13021 of 2020

SR II(CO)
NS(28/12/2020)