

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2020

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN  
AND  
THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

W.P.No.13692 of 2020

G.Saraswathi

... Petitioner

Vs.

The State Bank of India,  
PudurPirivu Branch - Tirupur,  
Dharapuram,  
Tiruppur,  
Represented by its Branch Manager

... Respondent

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 entire sums payable by the Petitioner as per the Respondent Bank's statement of account and release the documents to the Petitioner within a time frame.

For Petitioner : Mr.P.J.Sri Ganesh

For Respondent : Mr.S.Sethuraman  
Standing Counsel

O R D E R

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

Learned counsel appearing for the petitioner would submit that M/s.JSB Knit Fashions availed credit limit from the respondent Bank, and towards repayment of the loan, two items of properties were mortgaged. The learned counsel would further add that, on account of the vagaries of business, coupled with sudden outbreak and onset of Covid-19 Pandemic, the dues could not be paid on time, and therefore, the loan account was declared as 'Non-Performing Asset'. Action was initiated under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and the 2<sup>nd</sup> item of property was sold, and sale certificate has

also been issued in favour of the successful auction purchaser. It is the further submission of the learned counsel appearing for the petitioner that the petitioner, as of now, has paid the entire dues of Rs.30,16,332/- and with regard to the auction sale, proceedings are also pending before the Debts Recovery Appellate Tribunal at Chennai, in AIR (SA) No.22 of 2019, and insofar as the 1<sup>st</sup> item of property is concerned, it is yet to be brought for sale, and in the light of the fact that the petitioner has exhibited his bona fide by remitting the entire sum of Rs.30,16,332/-, this Court may direct the respondent Bank not to proceed with the auction sale of the 1<sup>st</sup> item, till the disposal of the said proceedings, and it is always open to the Bank to take call as to the deposit of the amount made by the petitioner, and prays for appropriate orders.

2.Mr.S.Sethuraman, learned Standing Counsel, appearing for the respondent Bank, has drawn the attention of this Court to the counter affidavit of the respondent, dated 27.10.2020, and would submit that, in the light of the payment of the entire sum of Rs.30,16,332/-, the same would be kept in the 'No Lien Account', and it may be permitted to be appropriated, and the representations, dated 22.07.2020 and 07.08.2020, submitted by the petitioner, though came to be rejected vide reply dated 29.09.2020, in the light of the subsequent development in the fair deposit of the amount made by the petitioner, their request to defer the auction sale with regard to the 1<sup>st</sup> item of property would be considered, and it may be also be subject to the result of the pending proceedings in AIR (SA) No.22 of 2019 on the file of the Debts Recovery Appellate Tribunal at Chennai.

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

4.The fact remains that the petitioner has deposited the entire amount of Rs.30,16,332/- to the respondent Bank, and as of now, it has been kept in the 'No Lien Account', and it is also the submission of the learned counsel appearing for the petitioner, on instructions, that it is open to the respondent Bank to appropriate the said amount towards the dues. It is also brought to the knowledge of this Court that the 2<sup>nd</sup> item has been sold in favour of one Shanmugasundaram, and sale certificate has also been issued on 03.07.2018, and the same is subject matter of challenge in AIR (SA) No.22 of 2019 on the file of the Debts Recovery Appellate Tribunal at Chennai and the 1<sup>st</sup> item of property is yet to be brought for sale.

5.In the light of the bona fide act on the part of the petitioner by depositing the entire sum of Rs.30,16,332/-, the respondent Bank may defer the decision as to the bringing of the 1<sup>st</sup> item of property by way of auction sale, and it is also open

to them to take appropriate action in the light of the said conduct of the petitioner, and it is subject to the outcome of AIR (SA) No.22 of 2019 on the file of the Debts Recovery Appellate Tribunal at Chennai.

This writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mkn

To

The Branch Manager,  
State Bank of India,  
PudurPirivu Branch - Tirupur,  
Dharapuram,  
Tiruppur.

+1cc to Mr.P.J.Rishikesh, Advocate, S.R.No. 40897  
+1cc to Mr.S.Sethuraman, Advocate, S.R.No. 40655

W.P.No.13692 of 2020

AD(CO)  
GN(18/01/2021)



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