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W.P.(MD)No.12138 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2020

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THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P.(MD)No.12138 of 2020

and W.M.P.(MD)Nos.10447 & 10448 of 2020

(Through Video conferencing)

P.Karupusamy

...Petitione

-Vs-

1.The Reserve Bank of India
Department of Non-Banking Supervisor
Fort Glacis
16, Rajaji Salai
Chennai - 1.

2.The Authorized Officer
Tamil Nadu Mercantile Bank Ltd
248-B, Rekha Towers, Kamaraj Salai
Chinthamani Branch
Madurai - 625 009.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 28.07.2020 passed by the 2nd respondent and quash the same and consequently directing the respondents to extend the period of time granted under rule 9(4) of Security Interest (Enforcement) Rules, 2002, to deposit the remaining bid amount for auction sale property in R.S.No.388/9B and factory building constructed thereat bearing Old D.No.21 A, New No.42 (Ward No.66(old), 100 (new) at EB Main Road, Muthuramalingapuram, Pykara Main Road, GST Road, Madakulam Village, Madurai, Madurai South Taluk, Madurai Join Sub-Register No.IV, Madurai Registration District and to issue sale certificate to the petitioner.

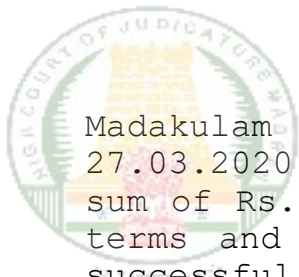
For Petitioner : Mr.P.Balamurugan
For Respondents : Mr.N.Dilip Kumar for R2

ORDER

[Order of the Court was made by **M.SATHYANARAYANAN, J.,**]

The second respondent bank brought the secured assets of a defaulting borrower, admeasuring to an extent of 5527.50 sq.ft. comprised in R.S.No.388/9B and factory building constructed therein, bearing Old D.No.21 A, New No.42 (Ward No.66(old), 100 (new) at EB Main Road, Muthuramalingapuram, Pykara Main Road, GST Road,

<https://hcservices.ecourts.gov.in/hcservices/>



Madakulam Village, Madurai, through an auction sale conducted on 27.03.2020 and the petitioner, became a successful bidder offered a sum of Rs.87,00,000/- (Rupees Eighty Seven Lakhs only). As per the terms and conditions of the auction sale, the petitioner being a successful bidder have to pay 25% of the bid amount of Rs.21,75,000/- (7,33,500/- + 14.41,500/-) on the same day and accordingly, it was paid and the remaining 75% of the bid amount to be paid by him within a period of 15 days on or before 11.04.2020.

2. The learned counsel appearing for the petitioner would submit that on account of the sudden outbreak and the onset of COVID-19 pandemic virus, the petitioner was not able to mobilize his funds, but with more difficulty, he managed the funds and since he is ready to make the balance payment of Rs.65,27,181/- (Rupees Sixty Five Lakhs Twenty Seven Thousand One Hundred and Eighty One only) in favour of the second respondent bank, this Court is kind enough to enlarge the period of time and prays for appropriate orders.

3. Per contra, Mr.N.Dilip Kumar, learned Standing Counsel appearing for the second respondent would submit that the petitioner, having participated in the public auction, is supposed to aware of the terms and conditions of the auction sale and therefore, he is under obligation to make good the balance payment within the stipulated time and cannot prefer equity in the form of extension of time to make the payment of the balance amount and he would further submit that in the event of this Court is showing benevolence in the form of enlargement of time, the petitioner may be directed to pay some simple interest among the said outstanding balance amount to be made by the petitioner.

4. This Court has carefully considered the rival submissions and also perused the materials placed on record.

5. This Court can take judicial notice of the fact that on account of the sudden outbreak and onset of COVID-19 pandemic virus, almost entire business activities came to standstill and assuming for the sake of arguments that the stand of the respondent bank is going to be upheld, in the event, the second respondent bank may have resort to re-auction and in the light of the present economic scenario, it may be difficult for the bank to get the same offer that was made by the petitioner.

6. This Court, taking into consideration the above facts and circumstances, directs the petitioner to make the balance payment of Rs.65,27,181/- (Rupees Sixty Five Lakhs Twenty Seven Thousand One Hundred and Eighty One only) in favour the second respondent bank within a period of one week from the date of receipt of a copy of this order and the second respondent shall accept the same and thereafter proceed with further formalities and complete the same as expeditiously as possible.



7. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are also closed.

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Sd/-

Assistant Registrar (CSII)

// True Copy //

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Sub Assistant Registrar(CS)

vsm

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Reserve Bank of India
Department of Non-Banking Supervisor
Fort Glacis
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Chennai - 1.

2.The Authorized Officer
Tamil Nadu Mercantile Bank Ltd
248-B, Rekha Towers, Kamaraj Salai
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Madurai - 625 009.

+1 CC to M/s.P. BALAMURUGAN, Advocate (SR-17655[F] dated 22/09/2020)

+1 CC to M/s.N. DILIP KUMAR, Advocate (SR-17764[F] dated 22/09/2020)

W.P. (MD)No.12138 of 2020
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