



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **18.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **N. KIRUBAKARAN**

AND

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WEB COPY

W.P.(MD)No.16159 of 2020

and

W.M.P.(MD)No.13532 of 2020

K.P.Karuppiah

... Petitioner

versus

1. The Debt Recovery Tribunal,
Madurai.

2. The Authorized Officer,
Canara Bank,
Theni Branch,
Theni.

3. The Branch Manager,
Canara Bank,
Madurai Road,
Theni.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of Mandamus, directing the 1st respondent to take on file S.A.SR.No.2392 of 2020 after clarification from the writ petitioner within a time frame to be fixed by this Court.

For Petitioner : Mr.S.Manohar

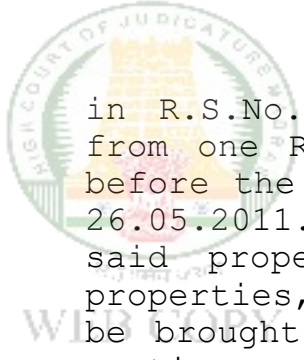
For Respondents : Mr.K.Mu.Muthu,
Additional Government Pleader for R1
Mr.R.Anandharaj for R2 and R3

ORDER

[Order of the Court was made by **N. KIRUBAKARAN, J.**]

This writ petition has been filed seeking for the issuance of a writ of Mandamus, to direct the 1st respondent to take up S.A.SR.No.2392 of 2020 on its file, after getting clarification from the writ petitioner, within a time frame to be fixed by this Court.

2. According to the petitioner, he is the purchaser of the properties at Door Nos.76/1 and 76/2, measuring about 2886 sq. ft.



in R.S.No.891/1A, Veerapandi Village, Theni Taluk and District, from one R.Senthil and R.Selvam, who are the respondents 4 and 5 before the Debts Recovery Tribunal, by virtue of a sale deed, dated 26.05.2011. From the date of purchase, he has been enjoying the said properties. When the things stand so, the petitioner's properties, which have been purchased on 26.05.2011, are sought to be brought for auction by the respondents 2 and 3, by issuing an auction notice, dated 03.02.2020, stating that the said properties have been mortgaged by the petitioner's vendors. Therefore, the petitioner approached the Debts Recovery Tribunal by way of filing an appeal to declare the auction notice issued by the second respondent herein dated 03.02.2020 and the proceedings initiated by the respondents 2 and 3 under the SARFAESI Act as null and void. The said appeal was filed on 28.02.2020 and the same was given as S.A.SR.No.2392 of 2020 before the Tribunal. Thereafter, the Tribunal has also heard emergent petition in I.A.No.611 of 2020 and allowed the same and also heard on 19.03.2020 on the maintainability of the appeal in length and posted the same for orders on 20.03.2020. However, on 20.03.2020, the appeal was re-opened *suo motu* and posted for clarification on 03.04.2020. Due to pandemic Covid 19 lock down, the Tribunal could not function. Thereafter, the matter was taken up on 03.09.2020 and adjourned to 18.01.2021. In the meanwhile, a fresh auction notice, dated 01.10.2020, was issued by the second respondent, in respect of the petitioner's properties, to conduct the auction on 22.10.2020. The said auction could not be successful. Thereafter, again, another fresh auction notice, dated 05.11.2020, was issued to conduct the auction on 26.11.2020. In view of that, the petitioner has come before this Court with the above prayer.

3. Heard Mr.S.Manohar, learned Counsel appearing for the petitioner and Mr.R.Anandharaj, learned Counsel appearing for respondents 2 and 3.

4. The petitioner already approached the first respondent Tribunal, where, the matter was argued and the same was posted "for orders" on 20.03.2020 and thereafter, the appeal was re-opened *suo motu* and posted for clarification on 03.04.2020. Due to the lock down, the matter could not be taken up. Even thereafter, on 03.09.2020, the matter was taken up, however, it was adjourned to 18.01.2021. Taking advantage of that, the respondents 2 and 3 are trying to bring the said properties for auction. The first respondent cannot postpone the passing of orders, especially when the respondents 2 and 3 are trying to bring the properties for auction. It is also brought to the notice of this Court that the petitioner purchased the said properties on 26.05.2011, whereas the mortgage has been made by the vendors of the petitioner only on 04.07.2018. This aspect has also to be taken into account.

<https://hcservices.ecourts.gov.in/hcservices> Therefore, taking into consideration the fact that the



auction is going to be held on 26.11.2020, the Tribunal is directed to advance the hearing of the appeal and pass orders on or before 25.11.2020. Both the parties are also directed to co-operate with the Tribunal for the disposal of the appeal.

6. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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

The Officer-in-charge,
Debt Recovery Tribunal,
Madurai.

+1 CC to M/s.S.MANOHAR, Advocate (SR-22149[F] dated 19/11/2020)

W.P. (MD) No.16159 of 2020
18.11.2020

KMV (CO)

KK(19.11.2020) 3P 3C