

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.3481 of 2021

Mohamed Ulmar Malk Mohamed

...Petitioner

Vs.

1. Allahabad Bank
rep. by its Manager
T.Nagar Branch
No.20, Apex Chambers
Thiyagaraya Road
Chennai 600 017.

2. Indian Bank
rep. by its Manager
T.Nagar Branch
No.20, Apex Chambers
Thiyagaraya Road
Chennai 600 017.

...Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records of the first respondent in reference AB/TNR/E-AUCTION/56, dated 24.12.2019 and to quash the same as arbitrary, illegal, unconstitutional and consequently, direct the respondents to return the deposit amount of Rs.46.40 lakhs together with interest at 24% per annum along with compensation amount of Rs.56.00 lakhs for the damages including the mental agony and suffering caused to the petitioner.

For Petitioner

: Mr.M.A.Gouthaman

For Mr.P.S.Amalraj

ORDER

(Made by the Hon'ble Chief Justice)

The grievance of the writ petitioner is that despite the writ petitioner having participated at the previous auction sale of a secured asset under the Securitisation and Reconstruction

of Financial Assets and Enforcement of Security Interest Act, 2002 and the writ petitioner having paid a substantial part of the consideration before he was informed by the Sub Registrar's Office that the document that had been furnished by way of security may have been forged, the respondent bank has proceeded to forfeit the deposit and listed the said property afresh for sale.

2. Section 17(1) of the Act of 2002 is quite expansive and permits any person aggrieved by any of the measures referred to in Section 13(4) of the Act taken by a secured creditor or its authorised officer to apply to the appropriate Debts Recovery Tribunal having jurisdiction. Thus, it appears that the present petitioner has a right to approach the appropriate Debts Recovery Tribunal against the further measures taken under Section 13(4) of the Act by the respondent secured creditor.

3. When there is a statutorily recognised forum, particularly, a specialised forum, is conferred the authority of entertaining a class of matters, the Writ Court should not usurp the jurisdiction of such forum to open up a parallel front. Further, in matters of the present kind, disputed questions arise as to the quantum of deposit or the time of deposit or the veracity of documents that cannot be conveniently addressed on affidavit evidence in summary proceedings.

4. For the aforesaid reasons, the present petition is not entertained and the petitioner is left free to work out his remedies in accordance with law. W.P.No.3481 of 2021 is dismissed, without going into the merits thereof. As a consequence, WMP No.3989 of 2021 is closed. There will be no order as to costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

सत्यमेव जयते

kpl

To

+1CC to Mr. P.S. AmalRaj Advocate, SR No. 10508.

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W.P.No.3481 of 2021

RV (CO)

NRA (09/03/2021)