

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2021

C O R A M

THE HON'BLE Mr.JUSTICE R.SURESH KUMAR

Writ Petition No.11200 of 2021

a n d

W.M.P.Nos.11849 and 11850 of 2021

Hemamalini

Petitioner

Vs

1. The Managing Director
The Tamil Nadu Industrial Co-operative Bank Limited
Thalamuthu Natarajan Building
No.1 Gandhi Irwin Road
Egmore, Chennai 8.
2. The Branch Manager
The Tamil Nadu Industrial Co-operative Bank Limited
9 Peramanur Main Road,
Four Roads, Salem.
3. The Sales Officer/Auction Officer
District Industries Centre
Omalur Main Road
SIDCO Industrial Estate
Narasothipatti
Salem 636 004.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records pertaining to the impugned auction notice dated 25/3/2021 issued by the third respondent and the same has been published in the "Thina Thanthi" Tamil daily newspaper dated 26/3/2021 and quash the same.

For petitioner : Mr.R.Nalliyappan

O R D E R

The prayer sought for herein is for a writ of certiorari, to call for the records pertaining to the impugned auction notice dated 25/3/2021 issued by the third respondent and the same has been published in the "Thina Thanthi" Tamil daily newspaper dated 26/3/2021 and quash the same.

2. The petitioner borrowed a loan from the respondent Co-operative Bank. Since it has become over due, the respondent Bank proceeded to bring the property belongs to the petitioner for public auction on 28.4.2021.

3. In this regard, the petitioner seems to have given a representation on 22.04.2021, requesting the respondent Bank authorities to stop the public auction, as he could not paid the dues because of his ill health and within four months period, he would repay the same, the said request also has not been considered and they proceeded to go ahead with the public auction as proposed. Only at that juncture, the present writ petition has been filed.

4. As per the auction notice, dated 25.03.2021, the auction was proposed to be conducted on 28.04.2021, therefore, by all means, the auction would have been over as early as on 28.04.2021. Therefore, at this stage, we cannot take the clock back. Moreover, any third party interest might have been created in the public auction conducted on 28.4.2021, and the auction purchaser if succeeded would have remitted the auction amount.

5. These details are not known to the petitioner. However, Mr.R.Nalliyappan, the learned counsel appearing for the petitioner would submit that, the petitioner is ready and willing to pay the entire amount within a time frame and in this regard, he wants to approach the Bank authority to show his bonafide to repay the amount and in this regard, at this juncture, if the petitioner directly approaches the Bank authorities, they may not accept even the good gesture on bonafide reason to be made by the petitioner, therefore, if such liberty is given to the petitioner by disposing this writ petition, the petitioner can work out his remedy by approaching the respondent bank authorities.

6. I have considered the said submissions made by the learned counsel appearing for the petitioner.

7. Since as per the auction notice dated 25.03.2021, the auction would have been held on 28.04.2021 itself, as on date, interfering with the said auction by this Court even for good reason may not arise.

8. Therefore, this Court is not inclined to accept this writ petition. However, since the petitioner wants to approach the respondent Bank, for making the payment to the satisfaction of the Bank to show their bonafide, it is open to the petitioner to make such an attempt and if any such genuine attempt is made by the petitioner, it shall be considered by the respondent Bank pragmatically, provided if any third party interest is not created by way of confirming the auction dated 28.04.2021 and by virtue of that, the auction purchaser has paid the entire auction money already.

9. With these observations, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mvs/tsvn.

To

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AK-I (CO)
GMY (07/05/2021)

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