

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12680 of 2021

T.Amuthavalli

.. Petitioner

Vs

- 1 The Secretary to Government
Ministry of Finance
Department of Financial Services
Jeevan Deep Building, Sansad Marg
New Delhi - 110 001.
- 2 The Authorised officer/Regional Manager
The Tamil Nadu Mercantile Bank Ltd
Coimbatore Regional office
540, D.B.Road, First Floor
R.S.Puram, Coimbatore - 641 002.
- 3 The Senior Manager
The TamilNadu Mercantile Bank Ltd
Perumanallur Branch
3/40A, Old NH-47
Opposite to State Bank of India
Perumanallur - 641 666
Tiruppur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing respondents 2 and 3 to extend the time to make the balance payment of Rs.43,94,250/-towards Sale Confirmation issued in favour of the petitioner till 30.8.2021, by exercising discretion under Clause 4 of the Sale Notice in view of the Covid -19 pandemic and lockdown as claimed in the representation dated 9.6.2021.

For Petitioner

: Mr.G.Arul Murugan

For Respondents

: Mr.V.Chandrasekaran
for respondents 2 and 3

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The petitioner seeks a direction on the respondent secured creditor to enlarge the time to receive the balance consideration for an auction sale that was conducted on March 11, 2021.

2. According to the petitioner, due to the lockdown imposed following the second surge of the pandemic, steps could not be taken to arrange the payment within time. The secured creditor has issued notices and the secured creditor says that it has authority only to extend time for a period of 90 days from the date of the auction sale. However, the secured creditor says that a further auction sale may involve time and money and there is no certainty that the price fetched at the previous auction may even be matched.

3. Considering the circumstances, the submission of the secured creditor and there being some ground for the balance consideration not to be tendered within the time or the extended time therefor, the stand taken by the secured creditor appears to be reasonable. Subject to the petitioner paying off the balance consideration within five weeks from date, as the secured creditor has indicated that it can wait for a maximum period of five weeks to receive the outstanding amount, the transaction may be completed. The secured creditor justifies its stand to accept the delayed payment since 6% interest per annum has been offered for the period of delay by the petitioning auction-purchaser and such interest would offset any loss that the secured creditor may have incurred for the delay in payment and would also go some distance in clearing the dues of the borrower.

4. W.P.No.12680 of 2021 is disposed of. The petitioner should make the balance payment together with interest thereon at 6% per annum for the amount outstanding from the ninetieth day after the auction till the date of payment, whereupon the secured creditor will be obliged to immediately make over the sale certificate for the relevant property within two weeks from the date of final payment and the transaction will be deemed to be completed.

5. In the event the petitioner fails to comply with the terms offered by the secured creditor and permitted by this order, it will be open to the secured creditor to take further steps in accordance with law, including to forfeit the part consideration paid, subject to the damage suffered by the secured creditor. In case of default, the secured creditor will also be entitled to take fresh steps for auction and the

petitioner will be liable to make good the diminution, if any, in the sale price.

There will be no order as to costs. Consequently, W.M.P.No.13468 of 2021 is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To:

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W.P.No.12680 of 2021

SKY (CO)
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