IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.12178 of 2020

Kanakaraja ...Petitioner

Vs.

1. The Authorised Officer,
Tamilnadu Mercantile Bank,
Tirupur Branch, Old No.90G-93G,
New No.233-236, Kamaraj Road,
Palladam Road, Tirupur 641 604.

2. The Branch Manager,
Tamilnadu Mercantile Bank,
Tirupur Branch, Old No.90G-93G,
New No.233-236, Kamaraj Road,
Palladam Road, Tirupur 641 604. ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the second respondent vide order dated 31.07.2020 bearing Reference No.TUP.BR.SARFAESI. KGS.Cor.1/2020-21 and quash the same and direct the respondent to receive the balance sum ofRs.11,73,750/-, being the 75% of the total bid amount and issue sale certificate in favour of the petitioner within a time frame.

For the Petitioner	:	Mr.P.J.Rishikesh
For the Respondents	:	Mr.V.Chandrasekaran for R-1
	:	No appearance for R-2

ORDER

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

The petitioner's bid was the highest at an auction conducted by the respondent secured creditor for a sale of an immovable property under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The grievance of the petitioner is that the balance consideration could not be paid due to the businesses being closed during the first surge of the pandemic and the secured creditor has declined to extend the time to make the balance payment and has purported to forfeit the entire amount already tendered.

3. Ordinarily, even a matter of the present kind has to be carried to the jurisdictional Debts Recovery Tribunal because the grievance of the auction purchaser would also be against a measure adopted by a secured creditor under Section 13(4) of the Act of 2002. However, in view of the pandemic and in cases where the time to complete the payment within three months after the date of the auction, in accordance with Rule 9(4) of the Security Interest (Enforcement) Rules, 2002 fell within the lockdown period, secured creditors have been requested to receive interest for the delayed period at the rate of six per cent and accept the balance consideration for the transaction to be completed.

4. In this case, it is graciously pointed out on behalf of the secured creditor that the end of the 90-day period was in April, 2020 which was during the peak period of the initial lockdown last year. Since the petitioner is agreeable to compensate the secured creditor by offering six per cent interest for the delayed period, the secured creditor is directed to accept such amount and complete the transaction if the entire balance due, including the interest component, is tendered to the secured creditor within a period of four weeks from date. In the event the balance consideration, inclusive of interest, is not made over to the secured creditor within the time permitted, the order will not apply and the secured creditor may be entitled to forfeit any amount deposited in accordance with law.

W.P.No.12178 of 2020 is disposed of. There will be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

To:

1. The Authorised Officer,
   Tamilnadu Mercantile Bank,
   Tirupur Branch, Old No.90G-93G,
   New No.233-236, Kamaraj Road,
   Palladam Road, Tirupur 641 604.

2. The Branch Manager,
   Tamilnadu Mercantile Bank,
   Tirupur Branch, Old No.90G-93G,
   New No.233-236, Kamaraj Road,
   Palladam Road, Tirupur 641 604.

W.P.No.12178 of 2020

MG(CO)
LS(05/10/2021)