

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.01.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

WP.NO.13476 OF 2020

AND

W.M.P.NOS.16647 & 16648 OF 2020

Mr.D.Manimaran .. Petitioners

Versus

1. Tamil Nadu Mercantile Bank Limited,
by its Authorised Officer,
No.223-236, Palladam Raod,
Tirupur 641 603.

2. A.Muthu

... Respondents

(R2 is impleaded vide order dated 11.11.2020
made in WMP.NO.19004/2020 in WP.No.13476 of 2020

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for records of the Impugned Proceeding of the Respondent dated 19.02.2020 and to quash the same and further issue necessary direction to the Respondent to issue confirmation of sale favoring the petitioner in respect of the auction sale conducted pertaining to the property situated S.F. No.272/IV site No.30 (East Part) D No.10/ 420 A, N.S.K. Nagar, 1st Layout, Karaipudur Village and panchayat Palladam Panchayat Union Palladdam Taluk, Tiruppur District- 641 605, after giving credit of all payments and deposit made by the petitioner.

For Petitioner : Mr.A.Prabhakaran

For R1 : Mr.V.Chandrasekaran

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J. through video conferencing]

The petitioner is the successful auction purchaser and due to some legal interdict at the instance of borrower, he could not make the balance payment of Rs.46,61,260/-. In view of the vacation of the interim order, the respondent Bank sent a communication dated 03.12.2018, by calling upon the petitioner/auction purchaser to make the balance amount within 15 days and since it could not be complied with, the impugned communication came to be issued.

2. The learned counsel appearing for the petitioner would submit that the petitioner, in the interregnum, has also deposited the said amount in the form of creating Fixed Deposit in his own name and taking into consideration his bonafide conduct, this Court may pass appropriate orders.

3. Per contra, learned standing counsel appearing for the respondent Bank would submit that in the light of the statutory provision under Rule 9(2) of the Security Interest (Enforcement) Rules, 2002, the respondent Bank is unable to comply with the request and however this Court, by taking into consideration the conduct of the petitioner, may pass appropriate orders.

4. When the matter was listed on 05.01.2021, it was pointed out to the learned counsel appearing for the petitioner, as to the payment of Simple Interest at the rate of 6% per annum, till actual payment, with regard to the balance sale consideration and the learned counsel appeared for the petitioner prayed for time and accordingly, the matter was adjourned today.

5. The learned counsel appearing for the petitioner, on instructions, would submit that the petitioner is willing to pay 6% of Simple Interest, on the balance sale consideration from 04.01.2019 till he makes the actual payment and undertakes to remit the same within a period of four weeks from the date of receipt of a copy of this order.

6. This Court heard the submission of the learned counsel appearing for the respondent Bank also.

7. In the light of the submission made by the learned counsel appearing for the petitioner, the petitioner shall pay the Simple Interest at the rate of 6% per annum, on the balance sale consideration of Rs.46,61,260/- from 04.01.2019 till he makes the actual payment, within a period of four weeks from the

date of receipt of a copy of this order/uploading of the order in the website and on compliance of the same, the respondent bank may proceed further in accordance with law.

8. In the light of the above, the Writ Petition is disposed of. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sk

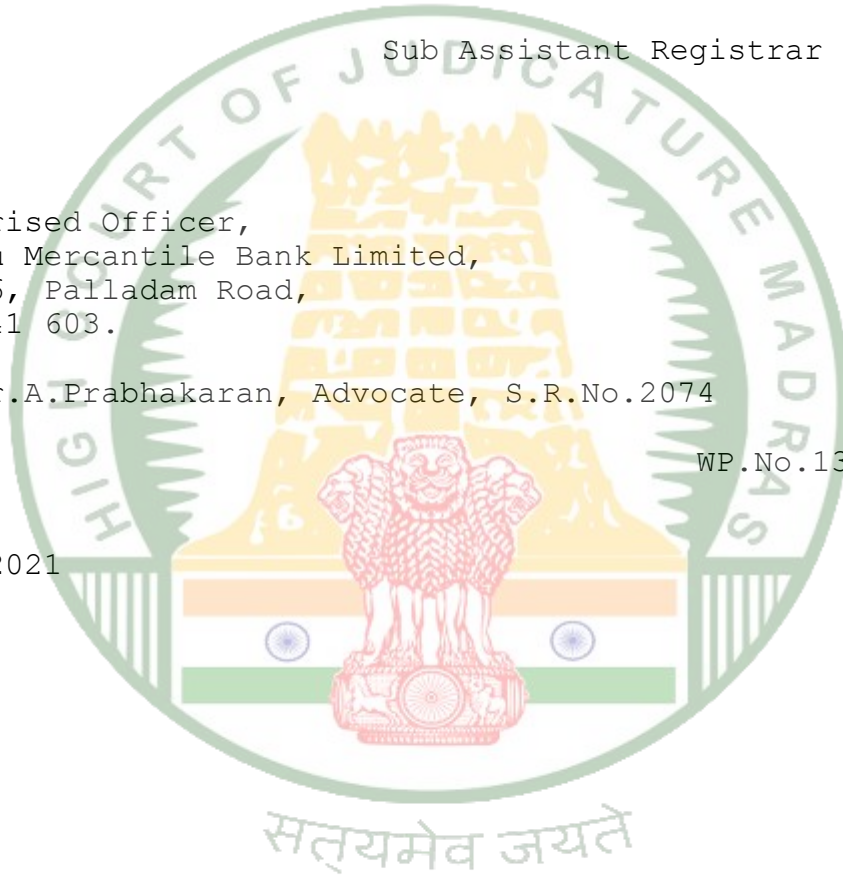
To

The Authorised Officer,
Tamil Nadu Mercantile Bank Limited,
No.223-236, Palladam Road,
Tirupur 641 603.

+2cc to Mr.A.Prabhakaran, Advocate, S.R.No.2074

WP.No.13476 of 2020

SSI(CO)
CS/10/02/2021



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