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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM :

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

W.P.NO.15732 OF 2021
AND
W.M.P.NOS.16632 & 16631 OF 2021

Helen Hepziba

... Petitioner

.Vs.

1. The Authorized Officer,
Union Bank of India (Earlier known
as 'Corporation Bank'),
Velandipalayam Branch,
Renga's Westend, NSR Road,
TS No.12/20, Saibaba Colony,
Coimbatore - 641 011.
2. Kwaliti Industries,
a partnership firm Rep. By its
Managing Partner Mr.S.Palaniappan,
No.5, Mani's Colony,
Kalingarayar Street,
Coimbatore - 9.
3. S.Palaniappan
4. P.L.Vijaya
5. The District Collector & District Magistrate,
Coimbatore District,
Coimbatore.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance a Writ of Mandamus, directing the 1st Respondent to receive the e-auction amount of the properties mentioned in the schedule of the 5th respondent's order dated 21.04.2021 and the expenses incurred for e-auction conducted by the 1st respondent bank and consequently, direct the



5th respondent not to take physical possession of the petitioner's property.

For Petitioner : Mr.J.Pothiraj

For Respondents : Mr.Sivabalan for R1

Mr.P.Balathandayutham,
State Government Counsel
For R5

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O R D E R

(Order of the Court was delivered by N.KIRUBAKARAN, J)

The matter has been heard through "Video Conference".

2. The Petitioner has come before this Court seeking for a direction, to direct the 1st Respondent to receive the e-auction amount of the properties mentioned in the schedule of the 5th respondent's order dated 21.04.2021 and the expenses incurred for e-auction conducted by the 1st respondent bank and consequently, direct the 5th respondent not to take physical possession of the petitioner's property.

3. The Petitioner would contend that he is only the Guarantor for the loan availed by the Second Respondent in which the Third and Fourth Respondents are partners. Since there was default in repayment of the loan by the Respondents 2 to 4 to the First Respondent, the properties which have been offered as security by the Petitioner is sought to be auctioned and therefore, the Petitioner has come before this Court.

4. Heard Mr.J.Pothiraj, Learned Counsel for the Petitioner and Mr.Sivabalan, Learned Counsel for the First Respondent and Mr.P.Balathandayutham, Learned State Government Counsel for the Fifth Respondent.

5. It is evident from the records that there was proceedings of the Debts Recovery Tribunal in Original Application No.141 of 2014 filed by the First Respondent against the Second to Fourth Respondents as well as against the Petitioner and the order has been passed as early as on 21.08.2017 where a sum of Rs.76,00,709/- was directed to be paid and thereafter, the auction notice was issued.

6. It is represented by the Learned Counsel for the First Respondent that there are two properties and the First property



belonging to the Petitioner was auctioned for a sum of Rs.28 Lakhs and the Second property belonging to the Petitioner was auctioned for a sum of Rs.72 Lakhs. Therefore, it is clear that the properties have already been auctioned and third parties are in possession. Hence, in the absence of third parties, no order could be passed in the Writ Petition. Considering the fact that the Petitioner is willing to settle the entire amount, liberty is given to the Petitioner to approach an appropriate forum or the bank and the subsequent purchasers.

7. With the above observations, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Authorized Officer,
Union Bank of India (Earlier known
as 'Corporation Bank'),
Velandipalayam Branch,
Renga's Westend, NSR Road,
TS No.12/20, Saibaba Colony,
Coimbatore - 641 011.
2. The District Collector & District Magistrate,
Coimbatore District,
Coimbatore.

+1cc to Mr.J.Pothiraj, Advocate, S.R.No.36852

W.P.NO.15732 OF 2021 AND
W.M.P.NOS.16632 & 16631 OF 2021

PCH(CO)
PBS/25/08/2021