



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

W.P.No.16443 of 2021
and WMP No.17410 of 2021

Shanthi

...Petitioner

Vs.

1. Authorised Officer/Chief Manager,
Punjab National Bank (Secured Creditor),
No.448-A, Dr.Nanjappa Road,
Coimbatore - 641 018.

2. R.Rajendran

3. Mary Maragatham

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent E-Auction Notice CS/Hi5 Enterprise/2021 dated 02.07.2021 issued by the respondent bank to the petitioner stating that the respondent's recovery proceedings will be continued till the recovery of bank's entire dues and quash the same and further direction to the 1st respondent/bank i.e., Authorised Officer/Chief Manager, Punjab National Bank, No.448A, Dr.Nanjappa Road, Coimbatore - 641 018 not to take any coercive steps in bringing the petitioner property at 11th ward in T.S.No.1187 (part) in Block 22 site No.9 at Door No.39/69, Sir Shanmugham Road, R.S.Puram, Coimbatore - 641 002 for E-Auction on 12.08.2021.

For Petitioner : Mr.K.Balakrishnan
For Respondent : Mr.M.L.Ganesh
For R.1

ORDER

(Made by the Hon'ble Chief Justice)

The petitioner makes out no case against any auction notice issued by the authorised officer of the respondent secured creditor in exercise of the authority under the Securitisation



and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. Like the proverbial citing of the scripture, the defaulting petitioner here seeks to hide behind an order dated May 17, 2021 passed by this court in a suo motu writ petition, W.P.No.11993 of 2021, in the wake of the second surge of the pandemic. By such order, in the light of the previous orders passed during the first phase of the pandemic, subsisting interim orders were extended, eviction orders were restrained from being implemented and incidental directions were issued to cover a period of time during which access to the courts had become extremely difficult because of the restrictions clamped down during the lockdown.

3. In the present case, there appears to be little dispute that the petitioner has defaulted in making payment to the respondent secured creditor. The prayer in the petition is for setting aside an e-auction notice of July 2, 2021.

4. Apart from the fact that the petitioner ought to have approached the appropriate Debts Recovery Tribunal against any measure adopted by the secured creditor under Section 13 (4) of the Act of 2002, the issuance of a notice of e-auction cannot be said, by itself, to be a notice for eviction; though eviction may later follow in the usual course. In any event, the embargo pertaining to eviction orders is no longer in place and the order dated May 17, 2021 has been modified by subsequent orders, the last being dated 27.07.2021, expressly excluding eviction proceedings from its purview and otherwise extending the interim order till August 31, 2021.

5. Accordingly, W.P.No.16443 of 2021 is dismissed. It will be open to the petitioner to approach the jurisdictional Debts Recovery Tribunal in accordance with law. Consequently, W.M.P.No.17410 of 2021 is closed.

6. Since this is the fifth writ petition by the defaulting petitioner, the petitioner will now pay costs assessed at Rs.50,000/- to the bank, which the bank may recover in course of its proceedings under the said Act of 2002.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sra



To:

The Authorised Officer/Chief Manager,
Punjab National Bank (Secured Creditor),
No.448-A, Dr.Nanjappa Road,
Coimbatore - 641 018.

COPY TO:

Debts Recovery Tribunal,
Coimbatore.

W.P.No.16443 of 2021

SR-II (CO)
LS (12/08/2021)