



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

W.P.No.15655 of 2020

Kanniyambadi Faiyaz Ahmed

.. Petitioner

Vs

1. The Authorised Officer,
The Tamil Nadu Mercantile Bank Ltd.,
T.T.K.Road Branch,
No.4, T.T.K.Road, Royapettah,
Chennai - 600 014.
2. M/s.Sarfaraz Niaz & Co.,
rep. by its Partner A.B.Sarfaraz Ahmed,
No.1307, MJ Street,
Neelfield, Vaniyambadi,
Vellore District - 635 751.

3. A.B.Sarfaraz Ahmed

4. A.Haneef Irshad

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records pertaining to the Notice sent by the respondent dated 8.6.2019 and quash the same and direct the respondent to collect the balance consideration from the petitioner and execute sale deed in favour of the petitioner and his wife A.Nusrath Jahan and also handover the vacant possession to the petitioner and his wife A.Nusrath Jahan.

For the Petitioner : Mr.M.Madhuprakash

For the Respondents : Mr.V.Chandrasekaran
for respondent No.1

: Mr.M.S.Shanmugasundaram
for respondent Nos.2 and 4



ORDER

(Order of the Court was made by P.D.AUDIKESSAVALU, J.)

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The Petitioner, who had quoted Rs.5,26,00,000/-, was the successful bidder in the auction that was conducted under SARFAESI Act by the First Respondent Bank on March 7, 2019. A sum of Rs.1,31,50,000/- had been deposited by the Petitioner on the said date. However, despite extension of time granted, the Petitioner did not remit the balance amount due. This had resulted in the First Respondent Bank forfeiting the amount paid by the Petitioner under Rule 9 of the Security Interest (Enforcement) Rules, 2002 by an order dated June 8, 2019, which is impugned in this writ petition.

2. In the meanwhile, the First Respondent Bank had issued a fresh sale notice dated June 18, 2019, which was challenged by the petitioner in S.A.No.259 of 2019 before the Debts Recovery Tribunal-II, Chennai. The said application was dismissed as infructuous as the sale did not take place. Another appeal in S.A.No.115 of 2019 was filed by Respondents 2 to 4 before the Debts Recovery Tribunal-I, Chennai challenging the first sale notice dated March 7, 2019, which was dismissed on 14.12.2020 as infructuous. As a consequence, there is no impediment, at present, for proceeding for the sale of the property afresh in accordance with law. It is informed by Mr.V.Chandrasekaran, learned counsel for the Respondent Bank, that even now the Petitioner can participate in the re-auction, if he still intends to purchase the property, and work out his rights accordingly.

3. Though it is represented by learned counsel for the Petitioner that the Petitioner is ready to pay the balance amount with interest to complete the earlier sale, it is not possible to accede to such request in the absence of any enabling provision under the relevant Rules. It is certainly incumbent upon the First Respondent bank to ensure that the best price is fetched for the property, more particularly when the debt due is Rs.11,96,53,441/- as on 30.06.2021 and the reserve price of the property is only about Rs.5,25,00,000/- in the sale notice. In such circumstances, there does not appear to be any justification to consider the relief as sought by the Petitioner in this Writ Petition.

4. In the upshot, W.P.No.15655 of 2020 is dismissed.



W.M.P.No.19502 of 2020 is closed. There will be no order as to costs.

Sd/-
Assistant Registrar (CS-VII)

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//True Copy//

Sub Assistant Registrar

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To:

The Authorised Officer,
The Tamil Nadu Mercantile Bank Ltd.,
T.T.K.Road Branch,
No.4, T.T.K.Road, Royapettah,
Chennai - 600 014.

+2ccs to Mr.M.Madhu Prakash, Advocate, S.R.No.57401

W.P.No.15655 of 2020

GPL (CO)
SU(12/11/2021)