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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.AUDIKESAVALU

WP NO.18984 OF 2021

M/s.Garuda Steels,
A Partnership Firm,
Rep. by its Partner, M.Ramesh.
S.F.No.309/1-A, Kulathupalayam Pudur,
Devanampalayam (PO), Kanathukkaduvu Taluk,
Coimbatore 642 120.

...Petitioner

Vs.

1.The Authorised Officer,
Indian Overseas Bank,
Large Corporate Branch,
No.10, Kannusamy Street,
DB Road, R.S.Puram,
Coimbatore 641 002.

2.M/s.Shree Murugan Flour Mills
Private Limited, Rep. by its Director,
No.5, Vinayakar Koil Street,
Krishnaswamy Nagar, Ramanathapuram,
Coimbatore 641 045.

3.Mr.Govindasamy Balasubramaniam

4.Jeevarathinam

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent to register the Sale Certificate dated 01.06.2021 issued by the 1st respondent in favour of the petitioner in



respect of the property described as Schedule-(IV) of the e-Auction Sale Notice ARMB/261/2020-2021 dated 23.02.2021, issued by the 1st respondent and E-Auction conducted pursuant thereto on 15.03.2021.

For the Petitioner : Mr.C.Om Prakash
Senior Counsel
for Mr.K.S.Karthik Raja

For the Respondents : Mr.M.L.Ganesh
for respondent No.1

: No appearance
for respondents 2 to 4

ORDER

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

The petitioner herein has purchased an immovable property at an auction sale conducted by the respondent secured creditor in course of proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner is aggrieved at the secured creditor not deputing a representative for the registration of the sale certificate which has been issued on June 1, 2021.

2. There is no dispute that the entire consideration of Rs.11,49,70,000/-, which includes TDS, has been paid by the petitioner. Indeed, without such payment, the sale certificate would not have been issued.

3. The second respondent herein - the borrower - purported to challenge the sale notice before the Debts Recovery Tribunal, Coimbatore. Such notice dated February 23, 2021 was stayed by the Tribunal subject to the second respondent depositing a sum of Rs.1 crore by March 31, 2021 and a further sum of Rs.6.5 crore by May 6, 2021. Though the initial deposit of Rs.1 crore was made, since the subsequent amount of Rs.6.5 crore had not been deposited, there was no impediment on the secured creditor proceeding with the auction. It transpires that the second respondent borrower applied for extension of time to make the total payment pertaining to the second deposit and,



according to the secured creditor, the presiding officer of the Debts Recovery Tribunal, Coimbatore, requested the secured creditor not to take any precipitous action.

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4. It is not relevant whether the secured creditor had informed the petitioner prior to the sale being conducted that such oral order was in place. In its affidavit, the secured creditor has indicated that by its letter of June 22, 2021, it informed the purchaser of the oral direction apparently issued by the Debts Recovery Tribunal, Coimbatore.

5. An oral direction is rarely issued by a judicial or quasi-judicial forum and though it is not completely unheard of, such a direction is issued for the shortest of durations, particularly when paucity of judicial time on a particular day prevents the court from taking up the matter that day and it directs the matter to appear the following day. Oral orders of the kind stopping the conclusion of a sale after the completion of the sale and the issuance of the sale certificate ought not to be passed, particularly since it was without notice to the only person affected thereby, which is the petitioner herein, which was not even a party to the proceedings and was subsequently sought to be impleaded by the borrower.

6. The borrower has been served but is not represented today.

7. Though the secured creditor has accepted that an oral direction was issued by the Debts Recovery Tribunal, Coimbatore, and has recorded the same on June 22, 2021, in the absence of there being any express direction that the secured creditor can rely on, particularly when the matter is already beyond the hands of the secured creditor, and it has already issued a sale certificate in favour of the purchaser, the secured creditor is directed to depute an authorised representative, preferably the authorised officer conducting the Sarfaesi proceedings, to attend the office of the Registrar at such time and place as may be called upon by the petitioner herein or fixed by the relevant Registrar for the registration of the sale deed.

8. Such exercise should be completed within a fortnight from date.



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9. WP No.18984 of 2021 is disposed of. There will be no order as to costs.

Sd/-
Deputy Registrar (CS)

// True Copy //

Sub Assistant Registrar

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To:

The Authorised Officer,
Indian Overseas Bank,
No.10, Kannusamy Street,
DB Road, R.S.Puram,
Coimbatore 641 002.

Copy To

The Debts Recovery Tribunal,
Coimbatore.

+1cc to Mr.K.S.Karthik Raja, Advocate SR.No.57495

WP No.18984 of 2021

AK-II(CO)
RVM(11/11/2021)