

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.01.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.17662/2020 & WMP.Nos.21907 & 21910/2020

[Video Conferencing]

Uma Kumar Hospital
rep.by its Partners
1.L.K.Kumar
2.Uma Kumar

.... Petitioners

Versus

The Authorised Officer
Central Bank of India
No.19A, MG Road
Hosur, Krishnagiri District 635109.

.... Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records relating to the proceedings of the respondent dated 07.11.2020 and quash the same.

For Petitioners: Mr.K.Nagarajan

For Respondent : Mr.M.L.Ganesh
Standing counsel

ORDER

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

(1)By consent, the writ petition is taken up for final disposal and is disposed of by this order.

(2)The petitioners-Hospital had availed the loan facilities and in lieu of the default committed, action was initiated under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [in short 'SARFAESI Act'] and prior to that, the Loan Account was also classified as Non Performing Asset.

- (3) The petitioners filed SA.No.128/2020 on the file of the Debts Recovery Tribunal-II, at Chennai, challenging the E-Auction Sale Notice dated 24.08.2020 and a conditional order was passed directing the petitioner to deposit an amount of Rs.15 Lakhs with the respondent-Bank on or before 28.09.2020 and another sum of Rs.15 Lakhs within a period of three weeks thereafter and the said interim order has not been complied with. Therefore, the respondent-Bank proceeded further and issued the communication dated 17.10.2020, stating among other things that the E-Auction will be conducted on 06.11.2020 with a reserve price of Rs.1.60 Crores and the sale did not fructify into a desired result and accordingly, yet another Notice dated 07.11.2020 was issued stating that the E-Auction sale will be conducted on 26.11.2020 with the reserve price of Rs.1.60 Crores and the petitioners, challenging the impugned notice dated 07.11.2020, came forward to file the present writ petition.
- (4) The learned counsel for the petitioners would submit that in the light of the pandemic situation, the hospital was not able to service the debts and if an opportunity is given by way of One Time Settlement, the petitioners will definitely settle the dues and prays for appropriate orders.
- (5) Per contra, Mr.M.L.Ganesh, learned Standing counsel appearing for the respondent-Bank would submit that in pursuant to the E-Auction Sale Notice dated 09.12.2020, auction was conducted on 29.12.2020 and it was knocked down in favour of a successful bidder for a sum of Rs.1.60 Crores and the successful bidder has also remitted a sum of Rs.1.55 Crores and if the petitioners are really aggrieved, they should have invoked the effective alternative remedy available under the provisions of the SARFAESI Act and prays for dismissal of this writ petition.
- (6) This Court has considered the rival submissions and also perused the materials placed before it.
- (7) Though the learned counsel for the petitioners made a fervent plea as to the acceptance of the One Time Settlement, this Court is of the considered view that in the light of the settled legal position, it cannot pass a positive order, directing the respondent-Bank to accept the OTS indicating a particular amount. In the light of the subsequent development in the form of successful auction taken place, the remedy open to the petitioner is to avail the alternative remedy under the provisions of the SARFAESI Act.
- (8) In the result, the writ petition stands dismissed and if the petitioner is so advised, he is at liberty to avail the

alternative remedy in the light of the auction sale took place in pursuant to the E-Auction Sale Notice dated 09.12.2020 before the competent Forum in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

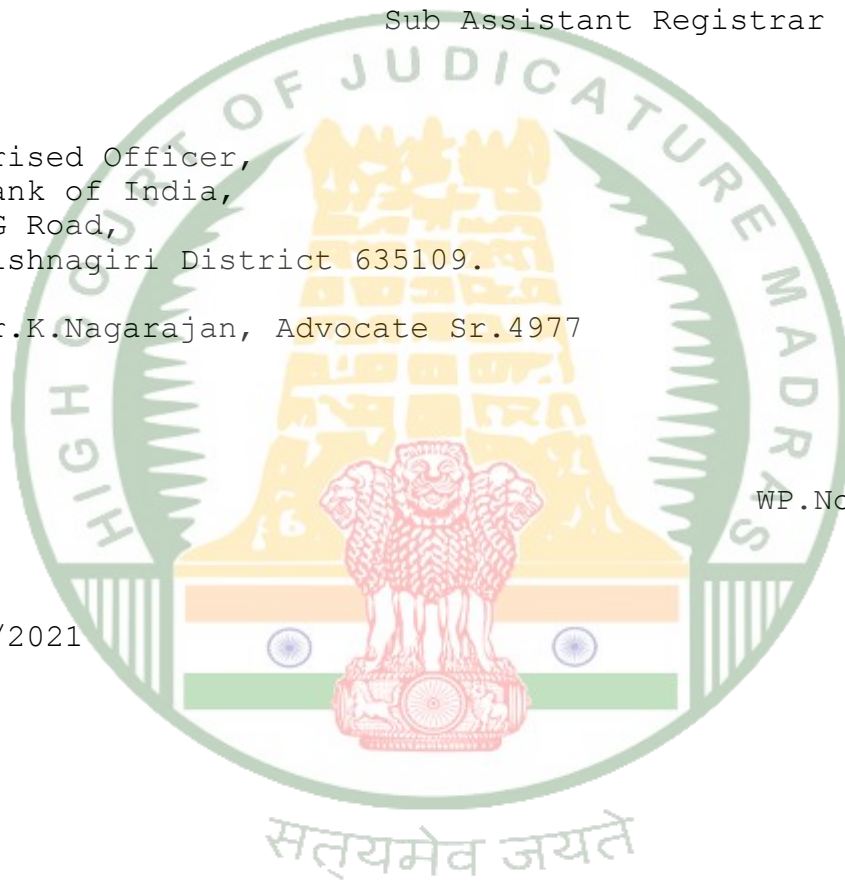
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To

The Authorised Officer,
Central Bank of India,
No.19A, MG Road,
Hosur, Krishnagiri District 635109.

+1cc to Mr.K.Nagarajan, Advocate Sr.4977

WP.No.17662/2020

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srg 25/02/2021



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