



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE  
AND  
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.23186 of 2021

S.Ashok

.. Petitioner

Vs

1.The General Manager (Recovery),  
Tamilnad Mercantile Bank Ltd.,  
57, V.E. Road,  
Thoothukudi - 628 002,  
Thoothukudi District.

2.The Regional Manager,  
Tamilnad Mercantile Bank Ltd.,  
Trichy Region,  
Palakarai Main Road,  
Trichy - 620 008.

3.The Authorized Officer & Chief Manager,  
Tamilnad Mercantile Bank Ltd.,  
Branch Officer  
71, Chennai Salai,  
Panruti - 607 106.  
Cuddalore District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for records relating to the forfeiture letter dated 29.06.2021 issued by the 3<sup>rd</sup> respondent, quash the same and direct the 3<sup>rd</sup> respondent to refund the advance amount of Rs.4,46,500/- to the petitioner with interest at the rate of 7.5% within the time that may be fixed by this Hon'ble Court.

For the Petitioner : Mr.P.Mani



ORDER

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

It appears that the petitioner is no longer interested in acquiring a property for which the petitioner put in a bid upon the respondent secured creditor conducting an auction under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner claims that the petitioner has subsequently discovered that the property is encumbered and the petitioner has, in such circumstances, demanded a refund of the part consideration tendered and for cancellation of the petitioner's bid.

2. In essence, the grievance of the petitioner is that the respondent secured creditor has induced the petitioner to participate at an auction conducted for the sale of a property without taking due care and caution to ensure that the property was unencumbered and the purchaser would obtain possession thereof.

3. The petitioner's grievance pertains to a measure taken by the respondent secured creditor under Section 13(4) of the Act of 2002. Section 17 of the said Act permits any person aggrieved by any measure adopted by a secured creditor under Section 13(4) of the Act to approach the jurisdictional Debts Recovery Tribunal with the grievance.

4. Accordingly, since the petitioner has an efficacious alternative remedy recognised by the governing statute, the petitioner should approach such forum in accordance with law. The present writ petition is not entertained and the merits of the matter are not addressed.

W.P.No.23186 of 2021 is dismissed. There will, however, be no order as to costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sasi

To:

- 1.The General Manager (Recovery),  
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+1cc to Mr.P.Mani, Advocate, S.R.No.55728

W.P.No.23186 of 2021

GSM(CO)  
CB(10/11/2021)