IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2021

CORAM :

The Hon'ble Mr.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.20013 of 2020

and W.M.P.No.24689 of 2020

M/s.Appoorva Traders
Proprietor: R.Rajaraman,
No.55/78, Balagopalapuram Street,
Pollachi, Coimbatore 642 001. .. Petitioner

-vs-

1.Syndicate Bank,
Now amalgamated as,
Canara Bank, No.80/1, Venkataraman Street,
Pollachi-2, Coimbatore District.

2.The Canara Bank,
Regional Office No.II,
R.S.Puram, Coimbatore 641 002.

3.R.Bhavani .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the respondent bank to consider the petitioner's representation dated 14.12.2020 for (One time settlement offer) OTS offer.

For Petitioner : Mr.P.Sidharthan

For Respondents : Mr.R.Umasuthan
for RR 1 and 2

ORDER
(Made by The Hon'ble Chief Justice)

The petitioner says that despite the petitioner’s offer to pay off the amount as offered by a bidder at an e-auction conducted by the secured creditor, the secured creditor has not considered the petitioner's offer.

2. The petitioner has borrowed from the Syndicate Bank which has now merged into Canara Bank. The petitioner says that the secured creditor took steps to sell the secured asset but the entire sale consideration may not have been received. The petitioner says that secured asset should now be made over to the petitioner on the petitioner paying the same amount as was bid.

3. As borrower, the petitioner has no right to seek a writ in the nature of mandamus of the kind that is evident from this petition. It is true that a borrower may also bid for the secured asset, but, ordinarily, when a secured creditor has a claim and after the sale of the secured asset some part of the claim survives, the secured creditor may again proceed against the asset, though not as the security, but merely as an asset of a debtor.

4. It is irrelevant as to whether the person who bid the highest at the auction has not stayed back to take the property. Considering the extent of the petitioner's indebtedness, the bank cannot be expected to willy-nilly settle the claim on the basis of the sale of only one secured asset.

5. The grievance of the petitioner appears to be somewhat contrived, particularly as the petitioner ought to be aware that this is not the appropriate forum to receive a complaint against measures adopted by a secured creditor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Further, in equity, the petitioner cannot buy back the asset that the petitioner has given by way of security and the petitioner be allowed to retain such asset notwithstanding the dues of the petitioner not being discharged.

6. It will be open to the respondent bank to lodge an appropriate claim against the petitioner. It will also be open to the secured creditor to take appropriate measures to realise its just dues in accordance with law.

W.P.No.20013 of 2020 is dismissed. There will be no order as to costs. W.M.P.No.24689 of 2020 is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

sra

To

1.Syndicate Bank,
Now amalgamated as,
Canara Bank, No.80/1, Venkataraman Street,
Pollachi-2, Coimbatore District.

2.The Canara Bank,
Regional Office No.II,
R.S.Puram, Coimbatore 641 002.

+1cc to Mr.P.Sidharthan, Advocate, S.R.No.26674

W.P.No.20013 of 2020

CP(CO)
CB(21/06/2021)