



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.1427 of 2021

and

W.M.P. (MD)No.1222 of 2021

Mrs.Gnana Floral

... Petitioner

Vs.

1.The Authorised Officer,
Canara Bank (Formerly Syndicate Bank),
Main Branch, Cantonment,
Tiruchirappalli - 1.

2.The Branch Manager,
Canara Bank (Formerly Syndicate Bank),
No.146, W.B. Road,
R.R. Sabha Building,
Tiruchirappalli - 620 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, calling for the records of the impugned E-Auction Sale Notice of the 1st respondent vide ref. No.SARF/TM/S-ST/2020-21 dated 24.12.2020 (received on 06.01.2021) and quash the same.

For Petitioner : Mr.R.S.Sivaram

For Respondents : Mr.N.Dilipkumar
Standing Counsel

* * * * *

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner has come forward to challenge the E-Auction Sale Notice issued by the respondent No.1 on the failure of the petitioner to repay the loan.

2.Learned counsel for the petitioner submitted that the earlier sale notice has been put on hold by the Debts Recovery Tribunal and the said forum failed to entertain the application, challenging the impugned E-Auction Sale Notice *inter alia* holding that it constitutes a separate cause of auction.

3.Mr.N.Dilipkumar, learned Standing Counsel appearing for the bank submitted that the petitioner can very well approach the bank for One Time Settlement and there is another loan pending, which was obtained for the education of the petitioner's son, who is gainfully employed in London. In any case, the Writ Petition is not



maintainable. The Tribunal has rightly returned the petition of the petitioner. In such view of the matter, the petitioner has to approach the Debts Recovery Appellate Tribunal, challenging the E-Auction Sale Notice and in the alternative the petitioner can also approach the Bank for One Time Settlement.

4.As rightly submitted by the learned Standing Counsel for the respondents, the Writ Petition is not maintainable. However, considering the fact that the auction is to be held on 28.01.2021, the respondent bank is at liberty to proceed with the auction but shall not confirm the same within two weeks from the date of receipt of a copy of this order. In the meanwhile, the petitioner is at liberty to file a fresh application before the Debts Recovery Tribunal contending that she is entitled to the benefit of the earlier interim order granted by the Tribunal and the interim order already granted had an impact on the impugned proceedings. Upon receipt of the same, the Tribunal shall take the application on file without rejecting the same on the ground of limitation. Since our observation is only *prima facie*, all the issues, including the interim order granted in the pending matter, are left open for the parties to agitate before the Debts Recovery Tribunal.

5.The Writ Petition is disposed of with the above directions and observations. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Presiding Officer,
The Debts Recovery Tribunal,
Madurai.

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-2486[F] dated 29/01/2021)

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na (CO)

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