



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.9299 of 2021

and

W.M.P(MD)No.7017 of 2021

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M/s.Mufra Steels & Alloys
No.21, ASK Complex,
Easanatham Road,
Andipattikottai(PO),
Aravakurichi Taluk,
Karur District-639 207,
Represented by its Partner Ramshad R.M. : Petitioner

Vs.

The Chief Manager/Authorised Officer,
Tamilnadu Mercantile Bank Ltd.,
Branch Office: D.No.43, Covai Road,
Padma Tower, First Floor,
Karur-639 022. : Respondent

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the Letters dated 26.04.2021 and 27.04.2021 issued by the respondent, quash the same and consequently direct the respondent to receive the balance sale price in a sum of Rs.2,12,50,000/- (Rupees Two Crores Twelve Lakhs and Fifty Thousands only) from the petitioner and complete the procedures pertaining to the sale process in pursuance of the Sale Conclusion Letter, dated 10.02.2021 in respect of the properties morefully mentioned in the description of the properties in the said Sale conclusion Letters, dated 10.02.2021 respectively and as is mentioned in the Schedule appended hereto, by granting extension of time as required by the petitioner vide the Letter dated 26.04.2021.

For Petitioner : Mr.R.Nagasundaram

For Respondent : Mr.N.Dilipkumar

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

This writ petition has been filed by the auction purchaser of a property which is put up for auction sale by the respondent

<https://hcservices.ecps.gov.in/hcservices/>



Bank on account of default committed by the borrowers M/s.Sanji Steels, by invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the SARFAESI Act).

2. Admittedly, the petitioner could not pay the entire sale consideration within the time permitted. Therefore, the respondent Bank are well justified in stating that in terms of the Statue they have got no power to extend time. However, taking note of the fact that in respect of the property in question, there were two other earlier writ petition before us, which were dismissed. One claiming that he was a lessee of the borrower, we found such a plea to be not tenable and the writ petition was dismissed. The other writ petition was by a person, who had claimed that he has set up an oxygen plant inside the factory premises and he is a third party to the loan transactions and he should be allowed to remove the oxygen plant. This plea was also rejected by us. The present plea is by the auction purchaser. The endeavour of the respondent Bank should be to recover the best possible price for the property and it appears that the petitioner has offered best possible price and he has been confirmed as a successful bidder and granted time to pay the sale consideration. The full sale consideration has admittedly not been paid within the time permitted.

3. Taking note of the present circumstances due to pandemic /Covid-19, it will be an appropriate case, where the respondent Bank can take a decision, by granting certain leverage to the petitioner, subject of course to other conditions, which may deem appropriate for the respondent Bank.

4. In any event, we cannot issue a positive direction in this writ petition and such a relief would not be maintainable. However, taking note of the fact that the entire balance amount has also been now remitted by the petitioner on 11.06.2021, we direct the respondent Bank to take appropriate decision in the matter at the earliest.

5. The learned counsel for the respondent Bank submitted that there is a clear statutory bar for extending the time.

6. As observed by us earlier, the present situation cannot be ignored by the respondent Bank and more particularly, when the petitioner has paid the entire amount on 11.06.2021. Therefore, the same shall be accepted and the respondent Bank shall calculate the interest and other charges, which are payable for the period of delay and execute a sale certificate in favour of the petitioner. This order has been passed considering the peculiar facts and circumstances of the case and not to be treated as a precedent.



7. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RM

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.

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-19870[F] dated 22/06/2021)

+1 CC to M/s.S.NAGASUNTHARAM, Advocate (SR-20010[F] dated 23/06/2021)

ORDER MADE IN
W.P. [MD]No.9299 of 2021
21.06.2021

SSS(CO)

TR(05.07.2021) 3P 3C