



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.9278 of 2020

and W.P. (MD) No.8448 of 2020

A.Jayakumar

... Petitioner

Vs.

1.The Authorised Officer,
Punjab National Bank,
Nandhi Koil Street Branch,
Malaikottai, Trichy - 620 002.

2.The Chief Manager,
Punjab National Bank,
Nandhi Koil Street Branch,
Malaikottai, Trichy - 620 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Respondents to refund the Auction bid amount of Rs.18 lakhs paid by the Petitioner in respect of the property let out at E-auction Sale dated 19.02.2015 forthwith along with interest at the rate of 12% monthly rest till the date of realization.

For Petitioner	:	Mr.S.I.Muthiah
For Respondents	:	Mr.V.Veera Pandian Standing Counsel

ORDER

(Order of the Court was made by T. S. SIVAGNANAM, J.)

Heard Mr.S.I.Muthiah, learned counsel for the petitioner and Mr.V.Veera Pandian, learned Standing Counsel for the respondents.

2.By consent on either side, the Writ Petition is taken up for final disposal.

3.The petitioner is an auction purchaser of a property, which was brought for auction by the respondents under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The auction was conducted on 19.02.2015, in which, the petitioner had participated and he was the successful bidder and a sale certificate was issued on 27.04.2015. Till now, the petitioner has not been put on possession of the property, nor the sale consideration of Rs.18,00,000/- paid by the petitioner to the respondents has not been returned. Therefore, the petitioner has approached this Court with the aforesaid prayer.



4.The learned Standing Counsel for the respondents would submit that they have filed petition under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and since no action has been taken they have filed W.P.(MD) No.7021 of 2017 and obtained a direction to the District Collector to pass orders on the petition filed under Section 14 of the SARFAESI Act and the respondents have also deputed one of their officer to follow up the matter and the bank is diligently following the matter.

5.The petitioner was a bidder in an auction sale and the amount offered for the property in the auction would have relevance to the date on which or the period during which the auction was conducted. If the value of the property to be auctioned is higher on bid the bank will not be able to sell it due to various factors. However, the offer made in an auction should always be considered to be an offer at the relevant time. Therefore, the petitioner, as an auction purchaser is entitled to possession of the property within a reasonable time. It may be true that the respondent Bank approached this Court in a march to secure possession under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, but only in 2017 they approached this Court. Considering the efflux of time and the petitioner has borrowed funds elsewhere and invested in the property and it is submitted that on account of the delay in securing the property he was unable to repay the loan obtained from outside, which has caused him mental agony and domestic problems. It is their duty to secure vacant possession of the property to the auction purchaser and the respondent Bank cannot say it is for the auction purchaser to approach the District Collector or District Magistrate under Section 14 of the Act. Thus, considering the above facts, the amount paid by the petitioner should be refunded together with interest, which in our considered opinion would be 8%.

6.Accordingly, the Writ Petition is allowed and the respondents are directed to refund the auction bid amount together with simple interest at the rate of 8% p.a. and the said payment to be calculated and effected within a period of three weeks from the date of receipt of a copy of this order. It is made clear that this order has been passed taking note of the peculiar facts and circumstances and it cannot be taken as a precedent. No costs. Consequently, connected Miscellaneous Petition is closed.

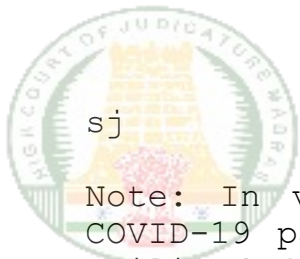
Sd/-

Assistant Registrar (CS-I)

// 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.

+2 CC to M/s.S.D.MUTHIAH, Advocate (SR-20602[F] dated 30/06/2021)

+1 CC to M/s.VAST LAW ASSOCIATES, Advocate (SR-20780[F] dated 30/06/2021)

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28.06.2021

KB(07.07.2021) 3P 4C