



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.11121 of 2020

M.Shyamala

... Petitioner

Vs.

The Authorized Officer / Branch Manager,
Andhra Bank,
No.100-A, Ground Floor,
Naveen Plaza,
Salai Road, Woraiyur,
Trichy District.

... Respondent

Prayer:Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the respondent herein to refund the amount Rs.14,05,000/- [Rupees Fourteen Lakhs and Five Thousand only] with interest at the rate of 12% per annum to the petitioner herein, which was paid by the petitioner's husband to the respondent Bank, within a stipulated period to be fixed by this Court.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondent : Mr.R.Pandivel
Standing Counsel

ORDER

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

The petitioner, who is the wife of the auction purchaser in an auction, which was concluded as early as on 14.06.2012, by way of a sale certificate. Thereafter, for the reasons best known to the husband of the petitioner, no step was taken towards the execution of the sale deed. The property in question is a vacant land. The request was made by the petitioner after the death of her husband to refund the amount. As it was not acceded, the present Writ Petition has been filed in the year 2020.

2.Placing reliance upon the orders passed by the Division Bench of this Court in **Rev.Aplw.No.302 of 2015, dated 01.04.2016 [Ambalavanan Vs. K.Kailasam and another]** and **W.P.No.39199 of 2016, dated 28.04.2017 [S.Shanmuganathan Vs. The Authorized Officer,**



Indian Overseas Bank, Asset Recovery Management Branch, Chennai], Mr.Thirunavukkarasu, learned counsel appearing for the petitioner submitted that the property has not been handed over and in view of the pendency of the proceedings before the Debts Recovery Tribunal, the petitioner's title will be under a cloud. If the application is allowed, she will be in peril.

3.Mr.R.Pandivel, learned Standing Counsel appearing for the respondent Bank submitted that the petitioner can very well be impleaded in the aforesaid proceedings and the Bank is always ready and willing to execute the sale deed and the possession continues with the petitioner even now.

4.We do not find any merit in this Writ Petition. There is no material to hold that the possession has not been handed over to the husband of the petitioner by the respondent Bank. It is a vacant land. The sale confirmation has already been taken by virtue of issuance of the sale certificate. The sale certificate itself indicates the factum of possession having been in favour of the husband of the petitioner, being the auction purchaser. Mere pendency of the proceeding before the Debts Recovery Tribunal or borrower will not be a bar. It is for the petitioner to take steps to execute the sale deed, which the respondent Bank is ready even now.

5.In such view of the matter, we will only expect the petitioner to register the sale deed, since the contract has been concluded between the parties and we expect the respondent Bank to co-operate for the same. We further make it clear that in the event of sale is ultimately set aside, the respondent Bank is expected to return the money along with interest at the rate of 7.5% p.a.

6.This Writ Petition is disposed of accordingly. No costs.

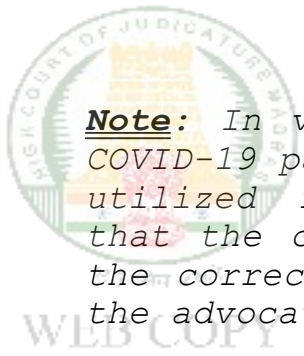
Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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 MR.M.THIRUNAVUKKARASU, Advocate (SR-8039[F] dated 02/03/2021)

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01.03.2021

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