



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.12908 of 2021

and

W.M.P.[MD]No.9982 of 2021

U.Joseph Jeyam

... Petitioner

Vs.

1.Raja Singh

2.Apple Jeya

3.Jeeva

4.Jeyaseelan

5.Tamil Nadu Mercantile Bank Ltd.,
Represented by its Branch Manager,
Harbour Estate Branch,
Door No.A3, Wilson Plaza,
World Track Avenue,
Harbour Estate,
Tuticorin - 4.

6.Rajkumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the public auction notice dated 03.12.2019 and 05.12.2019 issued by the fifth respondent under the SARFAESI Act in respect of the sale notice mentioned properties and quash the same.

For Petitioner	: Ms.N.Juliet Latha for Mr.R.Narayanan
For Respondent No.5	: Mr.N.Dilip Kumar

O R D E R

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

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

2.Heard Ms.N.Juliet Latha, learned Counsel for Mr.R.Narayanan, learned Counsel appearing for the petitioner and Mr.N.Dilip Kumar, learned Counsel appearing for the fifth respondent.

3.This writ petition has been filed challenging the auction notices dated 03.12.2019 and 05.12.2019, which have worked



themselves out and auction has been conducted and a third party has purchased the property and sale certificate was issued on 08.01.2020. If the petitioner is aggrieved, he should approach the Debt Recovery Tribunal as and when measures are initiated by the respondent bank under the SARFAESI Act.

WEB COPY

4.Learned Counsel for the petitioner would submit that the petitioner has filed O.S.No.94 of 2019, on the file of the Principal District Munsif Court, Tuticorin, praying for a declaration to declare the memorandum of deposit of title deed executed by the borrowers namely respondents 1 to 4 as non-est in law and illegal and allied reliefs.

5.We also find that the defendants 1 to 3 and 5 have filed written statements in the suit. Since the auction has taken place and sale certificate has been issued in favour of the sixth respondent, the petitioner is well advised to implead the sixth respondent as defendant in the suit, so that the decree, if any, obtained is binding. Hence, the relief sought for by the petitioner cannot be granted. However, we give liberty to the petitioner to pursue all his claims in the pending suit.

6.Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

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.JULIET LATHA, Advocate (SR-24485[F] dated 29/07/2021)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-24491[F] dated 29/07/2021)

W.P.[MD]No.12908 of 2021
28.07.2021

CM(CO)

KB(04.08.2021) 2P 3C