

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Wednesday, the Third day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice K.RAVICHANDRABAABU
and
The Hon`ble Mr.Justice SENTHILKUMAR RAMAMOORTHY

WP(MD) No.14890 of 2019

and

WMP(MD) .No.11396 of 2019

G.VIJAYAKUMAR

... PETITIONER

Vs

THE AUTHORIZED OFFICER /
CHIEF MANAGER,
INDIAN BANK, BODINAYAKANUR,
THENI DISTRICT.

... RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Certiorarified Mandamus calling for the records on the file of the Respondent relating to the sale notice dated 14/06/2019 auction sale on 04/07/2019 quash the same in respect of the petitioners immovable agricultural property of an extent of 7.33 Acres Comprised in S.Nos.5/1, Plantation lands (Coconut) at Bodinayakanur Village, Bodinayakanur Taluk, Theni District and consequently forbear the Respondents from in any manner proceeding against the said immovable agricultural properties of the petitioner by way proceedings under the SARFAESI Act, 2002.

Prayer in WMP(MD). 11396/ 2019 :

To stay the sale notice dated 14/06/2019 auction sale on 04/07/2019 issued by the respondent for taking of the petitioners immovable agricultural property of an extent of 7.33 Acres Comprised in S.Nos.5/1, Plantation lands (Coconut) at Bodinayakanur Village, Bodinayakanur Taluk, Theni District and all further proceedings pursuant thereto pending disposal of the above WP.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.P.ARUN JAYATRAM, Advocate for the petitioner and of MR.R.PANDIVEL, Advocate on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by K.RAVICHANDRABAABU,J)

Mr.R.Pandivel, learned counsel takes notice for the respondent/Bank and seeks time to file counter.

2.The learned counsel appearing for the respondent/Bank submitted that the Petitioner has not chosen to challenge the possession notice issued under Section 13(4) of the SARFAESI Act, 2002 and allowed the same to become final. He further submitted that earlier, two auction proceedings were initiated, out of which, one was challenged by the Petitioner by way of Writ Petition, which also came to be dismissed as infructuous, as there is no bidder and that the present Writ Petition is filed only to stall the auction proceedings scheduled on 04.07.2019. He also contended that the total outstanding from the Petitioner is to the tune of Rs.7 crores.

3.The learned counsel for the Petitioner submitted that the agricultural lands cannot be brought for auction, as they are exempted from the SARFAESI proceedings.

4.On the other hand, the learned counsel for the respondent/bank submitted that the subject-matter property is not an agricultural land, since the Petitioner is growing commercial crops in the said land.

5.Merits of the contentions raised by the respective parties have to be gone into only after completion of pleadings.

6.In view of the above-stated facts and circumstances, We permit the auction scheduled on 04.07.2019 to go on, however, the confirmation of the sale shall not be made, until further orders.

7.Post the matter after two weeks, for filing counter.

sd/-
03/07/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

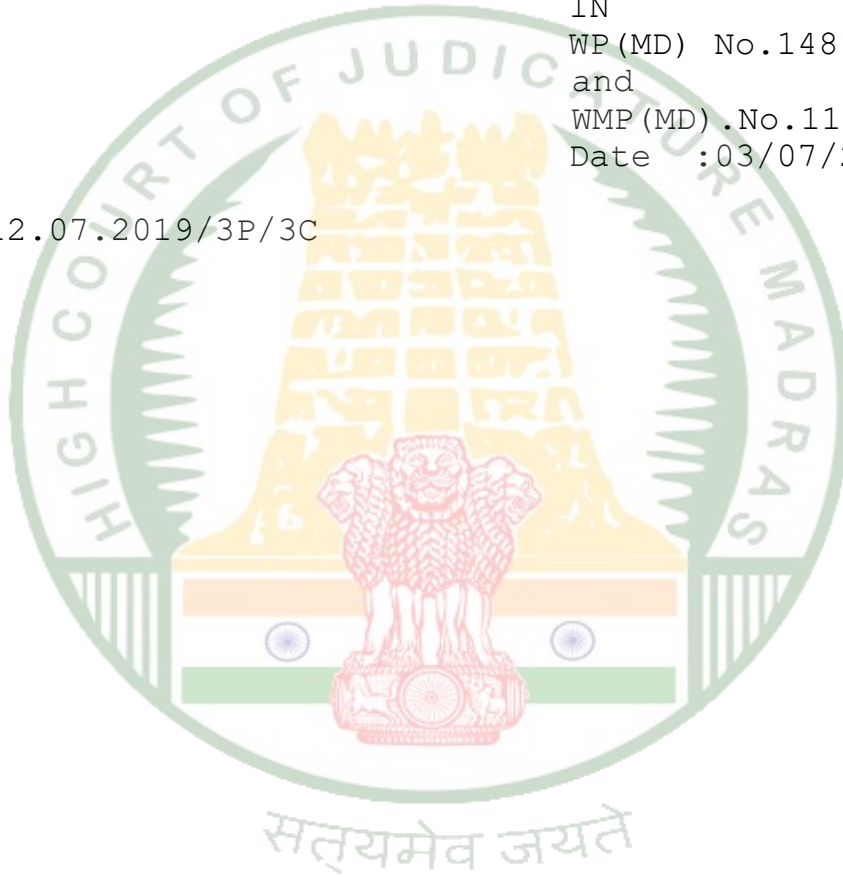
TO

THE AUTHORIZED OFFICER /
CHIEF MANAGER,
INDIAN BANK, BODINAYAKANUR,
THENI DISTRICT.

+1. C.C. to M/S.P.ARUN JAYATRAM Advocate SR.No. 11084

ORDER
IN
WP (MD) No.14890 of 2019
and
WMP (MD) No.11396 of 2019
Date :03/07/2019

JM/JC/SAR 1/12.07.2019/3P/3C



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