



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2021

CORAM :

WEB COPY

**THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE M.DURAI SWAMY**

W.P. (MD) No.6796 of 2018
and
W.M.P (MD) No.6506 of 2018

N. Mohan

... Petitioner

Vs

1. The Authorized Officer,
The State Bank of India,
RACPC, Madurai.

2. The Authorised Officer,
The State Bank of India,
RASMECCC,
2, Dr. Ambedkar Road,
Madurai.

3. L.S. Kesavan

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned sale certificate registered in Doc.No.1577/2018, dated 08.03.2018, on the file of Joint-I Sub Registrar Office, Madurai South, issued by the first respondent in favour of the third respondent and quash the same as illegal and consequently direct the first and second respondents to refix the valuation of the property mortgaged by the petitioner in Survey No.85 Part, Plot No. LIG-II-103 to an extent of 90Sq.mts equivalent to an extent of 969 Sq.ft., situated at Thoppur Village, Madurai South Taluk, Madurai District, as per the statute in a fair and transparent manner.

For Petitioner

:Mr. C. Thamburajan

For R-1 & R-2

:Mr. G. Radha Krishnan



ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

The challenge in the writ petition is to a sale certificate issued by the secured creditor upon auctioning the security that has been furnished by the petitioner. The principal grievance of the petitioner is that no previous notice pertaining to the sale or the conduct of the auction was issued by the secured creditor.

2. Ordinarily, a person aggrieved by any measure taken by a secured creditor under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, ought to approach the jurisdictional Debt Recovery Tribunal under Section 17 of the Act. The writ Court is not the appropriate forum. There is an efficacious remedy provided under the statute.

3. In any event, a disputed question arises as to whether any notice was issued or not, particularly since the law mandates a notice be issued prior to the conduct of sale. In fact, there is an initial notice issued upon the account turning non-performing. In addition to such notice issued under Section 13(2) of the Act, a subsequent notice is also required to be issued under Section 13(4) of the Act whereupon the right of the borrower is triggered off, so to say to approach the appropriate Debt Recovery Tribunal.

4. Since the matters complained of were capable of being carried to the appropriate Debt Recovery Tribunal in accordance with law, the writ Court will not be minded to look into the disputed areas of whether a notice was duly issued to or received by the petitioner.

5. W.P(MD)No.6796 of 2018 is disposed of without going into the merits of the petitioner's allegations leaving the petitioner to pursue the remedies available in accordance with law.

There will be no order as to costs.
W.M.P(MD) No.6506 of 2018 stands closed.

Sd/-

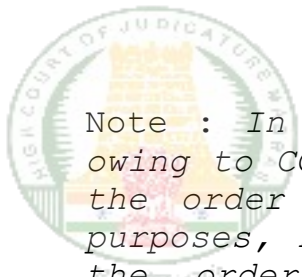
Assistant Registrar (CS II)

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/ /2021

Sub Assistant Registrar(CS)

PM/PJL



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.

W.P. (MD) No.6796 of 2018
27.09.2021

MGJ(05.10.2021) 3P 1C