BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 02.12.2021
CORAM :
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
C.R.P(MD)No.1895 of 2021
and
C.M.P(MD)No.10206 of 2021

Sekhar .. Petitioner/Petitioner/Applicant

Vs.

The Authorized Officer,
CSB Bank (Catholic Syrian Bank Ltd.),
Asset Recovery Branch,
No.54, 2nd Floor,
Shiva Complex,
Old Post Office Road,
Coimbatore-18. .. Respondent/Respondent/Respondent

Prayer:- Civil Revision Petition filed the Under Article 227 of the Constitution of India, against the order passed in I.A.No.1748 of 2021 in S.A.No.490 of 2021, dated 08.11.2021 passed by the learned Debts Recovery Tribunal, Madurai and allow this revision petition.

For Petitioner : Mr.S.Pugalendhi

O R D E R

S.VAIDYANATHAN, J.
And
DR.G.JAYACHANDRAN, J.

In the year 2016, the revision petitioner herein has borrowed a sum of Rs.19,90,000/- from AXIS Bank, Nagercoil Branch agreeing to pay the amount with 11.5% interest.

2.The property was mortgaged as a security for the said loan. The loan was transferred to CSB Bank from which an additional loan of Rs.5,00,000/- was obtained by the petitioner herein on 10.12.2019. Since due was not paid, proceedings under Section 13 (2) of SARFAESI Act was initiated on 21.04.2021 by the respondent Bank. It is stated in the affidavit that the possession notice was issued on 18.08.2021 and impugned E-auction sale notice issued on 17.09.2021. Being aggrieved, the petitioner herein has approached the Debts Recovery Tribunal, Madurai, vide S.A.No.490 of 2021 and has also taken out an interlocutory application in I.A.No.1748 of 2021 for interim stay of the E-auction scheduled to be held on 02.11.2021. The learned Presiding Officer of the Debts Recovery Tribunal, Madurai, on hearing the borrower and the Bank in the stay application, has held that the E-auction sale already conducted and sold for a sum of Rs.41,00,000/-. The successful bidder has already deposited 25% of the bid amount as per the auction condition. Therefore, taking note of the above fact, the Tribunal has passed additional order as below and adjourned the case to 07.12.2021:

> "The Tribunal, on considering the rival submissions made by the parties and without going into the merits of the case at present, and the present condition of NOVEL Corona (COVID-19) prevailing in the Country, this Tribunal is the view that the Applicant needs to be given a chance to prove his bona-fide and merits of the submissions. Hence, this Tribunal is hereby order the Appellant to deposit an amount of Rs.29,00,000/- to the Respondent Bank, out of which a sum of Rs.14.50 lakhs shall be paid, on or before 06.12.2021 and another sum of Rs.14.50 lakhs shall be paid, on or before 03.01.2022 to the Respondent Bank. The Respondent Bank on receiving the sum as ordered by this Tribunal, shall not proceed any further under the SARFAESI Act until further order. If the Applicant is failed to deposit any part of amount as ordered by this Tribunal, the Respondent Bank shall be at its liberty to proceed further under the SARFAESI Act, without any reference to this Tribunal."

3. The learned counsel for the revision petitioner submitted that the Tribunal has failed to consider the petitioner's offer to repay the loan amount in 24 monthly instalments. But, as passed in the conditional order to pay the entire amount in two instalment on or before 06.12.2021 and 03.01.2022, the petitioner being the Sweet Vendor at temple festival, it is difficult for him to mobilise a huge sum of Rs.29,00,000/- within the given time. The Debts Recovery Tribunal has failed to consider that on 10.12.2019, the respondent Bank has sanctioned a sum of Rs.25,00,000/-to the petitioner and he has been continuously paying the instalment without any default and only due to the lock down imposed in view of the pandemic, he was not able to pay 24 instalments. The order of the Tribunal dated 08.11.2021 is to be set aside.

4. On perusing the papers and hearing the learned counsel for the revision petitioner, this Court finds that the revision petition against the interim order passed by the Debts Recovery Tribunal does not suffer any infirmity. To show the bonafide, the

petitioner herein has to comply the condition and contest the recovery proceedings. Instead, he cannot stall the proceedings, while admittedly, he owe money to the bank and for the past 24 months, he has not paid the instalments.

5. In view of the above, this Civil Revision Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed. However, it is always open to the petitioner to seek extension of time or modification order from the Debts Recovery Tribunal itself.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

To

The Debts Recovery Tribunal, Madurai.

C.R.P(MD)No.1895 of 2021
02.12.2021

MJ(CO)
SB(23.12.2021) 3P 2C