



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2021

CORAM :

WEB COPY

**THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE
AND
THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA**

W.P. (MD) No.22468 of 2021

and

WMP (MD) Nos.18996, 18998 and 18999 of 2021

1)A.J.Jeenath Begum

2)M.A.Jalal

.. Petitioner

Vs.

1.The Branch Manager,
State Bank of India,
RASMECCC Branch,
No.2, Madhuan Complex,
Dr.Ambedkar Road,
Madurai-625 002.

2.The Authorized Officer,
State Bank of India,
SARB, Madurai,
No.8, Dr.Ambedkar Road,
Vinayaganagar Branch 1st floor,
Madurai-625 020.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari, to call for the records pertaining to the impugned E-Auction Sale Notice issued by the 2nd Respondent Bank dated 04.12.2021 through Paper Publication in Tamil News Paper ''Thina Thanthi'' on 05.12.2021 and the sale to be held on 23.12.2021 and quash the same on the ground that the same is arbitrary, illegal and without any legal basis.

For Petitioner : Mr.N.Palanisamy
For Respondents : Mr.N.Dilipkumar



ORDER

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

By this writ petition, a challenge is made to E-Auction sale notice issued by the 2nd respondent on 04.12.2021 published on 05.12.2021 in the newspaper. The auction of the property is scheduled on 23.12.2021.

2. The learned counsel for the petitioners submits that in the appeal preferred by the petitioners challenging the notice issued under Section 13(4) of SARFAESI Act, 2002, the Tribunal passed a conditional interim order on 29.09.2021. The interim order was passed when the respondents issued the auction notice. The direction was given by the Debts Recovery Tribunal to the petitioners herein to pay a sum of Rs.8,42,000/- on or before 29.10.2021 and thereupon, another sum of Rs.8,42,000/- by 29.11.2021. The matter was posted on 30.11.2021 to find out the compliance of the direction. It is not in dispute that the amount of Rs.8,42,000/- was paid by the petitioners twice on the respective dates. On 30.11.2021, the matter was referred for the month of June 2022, for the reason that the Debts Recovery Tribunal, Madurai, was not functional. The respondents have issued another auction notice for the auction to be held on 23.12.2021 and that is being challenged.

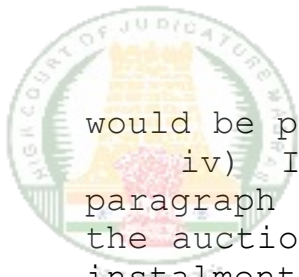
3. While the parties were addressing the issue, the learned counsel for the petitioners on instructions, submitted that the petitioners are willing to pay the entire due amount with interest within a period of three months, if it is provided in three instalments. This proposal has not been opposed by the counsel for the respondent bank. It otherwise would not only satisfy the due amount in favour of the bank, but would end the litigation between the parties.

4. Accordingly, this writ petition is disposed of with the following directions:-

i) The petitioners would pay the entire remaining due amount with interest in three equal instalments of one month each. The first instalment would be payable on 20.01.2022 and next two instalments after one month each. The payment of the due amount would be with updated interest and would be in diminishing value.

ii) In case of the compliance of direction given above, the pending O.A may be governed by the direction and accordingly, the litigation between the parties would come to an end, for which they would make an application before the Debts Recovery Tribunal in the pending O.A.

iii) In case of payment, the bank has agreed to release the security of the petitioners, as the entire due amount



would be paid by the petitioners in three instalments.

iv) In case of non compliance of the direction given in paragraph 1, the respondents would be at liberty to proceed with the auction, in case of default either on first or second or third instalment.

5. Accordingly, the auction would not proceed on 23.12.2021.

6. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

bala/ssl

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

1.The Branch Manager,
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2.The Authorized Officer,
State Bank of India,
SARB, Madurai,
No.8, Dr.Ambedkar Road,
Vinayaganagar Branch 1st floor,
Madurai-625 020.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-40004[F] dated 22/12/2021)

+1 CC to M/s.N.PALANISAMY, Advocate (SR-39732[F] dated 21/12/2021)

W.P. (MD) No.22468 of 2021

20.12.2021