



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2021

CORAM :

**THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE**

**AND**

**THE HON'BLE MR.JUSTICE M.DURAI SWAMY**

W.P.(MD) No. 23120 of 2018

and

W.M.P(MD)No.21012 of 2018

WEB COPY

Saswath Constructions Pvt. Ltd.,  
Through its Managing Director,  
Having Office at Shanthi Sadhan,  
28, Melakkal Main Road,  
Kochadai,  
Madurai - 625 016.

... Petitioner

**Vs**

1.The Chief Manager/Authorized Officer,  
Indian Bank,  
East Veli Street Branch,  
Madurai-01.

2.Mrs.Janaki

... Respondents

**PRAYER:** Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus, directing the first respondent to permit the petitioner to withhold/withdraw the additional sum of Rs.19,41,194/- over and above the outstanding owing to the 1<sup>st</sup> respondent bank by the 2<sup>nd</sup> respondent from out of the total bid of the amount Rs.55,68,000/- and issue sale certificate to the petitioner the auction purchaser.

|                |                    |
|----------------|--------------------|
| For Petitioner | : Mr.A.R.M.Ramesh  |
| For R-1        | : Mr.Aiyar & Dolia |
| For R-2        | : No Appearance    |

**ORDER**

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

The petition is baseless and the jurisdiction under Article 226 of the Constitution could not have been invoked. The petitioner, emboldened upon the petition having been received, now seeks to suggest that since so much time has been spent in Court, the petitioner is entitled to the relief since the petitioner's opportunity to approach the Debts Recovery Tribunal has now been lost.



2.The petitioner purchased an immovable property at an auction conducted by the respondent secured creditor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner has a grievance with the secured creditor. Whatever may be the nature of such grievance, the petitioner ought to have carried the same to the appropriate Debts Recovery Tribunal exercising jurisdiction since Section 17 of the Act of 2002 permits any person aggrieved by any measure taken by a secured creditor under Section 13(4) of the Act to carry the relevant grievance to the appropriate Debts Recovery Tribunal.

3.Merely because the petitioner chose a wrong forum does not mean that the adjudication that the petitioner desires has now to be conducted here despite the petitioner abandoning the statutory forum that was available to the petitioner.

4.W.P(MD)No.23120 of 2018 is dismissed without going into the merits thereof. It will be open to the petitioner to approach any appropriate forum with the grievances complained of. In the event the petitioner approaches the Debts Recovery Tribunal and is not entertained, it will be open to the petitioner to institute a suit against the secured creditor in respect of the matters complained of since the matters complained of involve disputes pertaining to the nature of the property and the price thereof which cannot be appropriately assessed in summary proceedings on affidavit evidence without recording oral evidence.

W.M.P(MD)No.21012 of 2018 is closed. There will be no order as to costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /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.*



To

The Chief Manager/Authorized Officer,  
Indian Bank,  
East Veli Street Branch,  
Madurai-01.

W.P.(MD) No. 23120 of 2018  
**25.10.2021**

**SRK (CO)**

**RS/PM (09.11.2021) 3P 2C**