



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P (MD) No.22822 of 2021

and W.M.P. (MD) No.19294 of 2021

WEB COPY

T.Kajendran

... Petitioner

Vs.

1.The Chief Manager / Authorised Officer,
Canara Bank,
Manjur Branch,
Paramakudi,
Ramanathapuram District.

2.The Senior Manager,
Canara Bank,
Manjur Branch,
Paramakudi,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the impugned sale notice under reference SN/1900/SN/766.14/3/2021-22, dated 24.11.2021 issued by the Respondent's Bank to the petitioner for the proposed E-auction sale to be held on 29.12.2021 in respect of the property bearing patta No.352 S.No.216/3C and New Patta No.352, New Sub Division Survey No.216/13C3 at Kolundur Village, Madukulathur Taluk, Ramnad District and quash the same as illegal and erroneous forthwith.

For Petitioner : Mr.S.Palani Velayutham

For Respondents : Mr.N.Dilipkumar
Standing Counsel

ORDER

(Order of the Court was made by PUSHPA SATHYANARAYANA, J.)

The writ petitioner, who is the borrower, is challenging the sale notice, dated 24.11.2021, issued under Section 13(4) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 read with Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, wherein the sale has been fixed on 29.12.2021.

2.Heard Mr.S.Palani Velayutham, learned counsel for the petitioner and Mr.N.Dilipkumar, learned Standing Counsel, who accepts notice on behalf of the respondents.

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3.By consent of both sides, this Writ Petition itself is taken up for final disposal.

4.According to the petitioner/borrower, the outstanding amount is Rs.33.5 Lakhs. Since the property, which is sought to be taken possession is residential one, she seeks indulgence of this Court.

5.Admittedly, the petitioner has not preferred any appeal before the Debts Recovery Tribunal. The petitioner offers to deposit 50% of the said amount on or before 24.01.2022, as the sale is fixed on 29.12.2021, to show his bonafides. The learned Standing Counsel for the respondents is agreeable for the same.

6.The learned counsel for the petitioner would further submit that the petitioner would somehow mobilize funds and settle the Bank and save his property.

7.Though the Writ Petition is not maintainable, in view of the fact that there is no Presiding Officer at the Debts Recovery Tribunal, Madurai, and the petitioner is short of time to file appeal before the Debts Recovery Tribunal, Coimbatore we have taken up the matter and the following order is passed:-

- i.The impugned sale notice, dated 24.11.2021, issued by the Respondent Bank is cancelled on condition that the petitioner should deposit a sum of Rs.6,00,000/- (Rupees Six Lakhs only) on or before 29.12.2021, and the balance of the 50% of the outstanding amount on or before 24.01.2022 before the respondent bank, failing which, the interim order granted shall stand vacated automatically without further reference to this Court and it is open to the respondents to revive the sale notice.
- ii.This order is passed only to give time to the petitioner to approach the Bank and resolve the matter amicably. In the event, the petitioner is unable to settle the issue, it is open to the respondents to revive the sale notice.

8.The Writ Petition stands disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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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 Chief Manager / Authorised Officer,
Canara Bank,
Manjur Branch,
Paramakudi,
Ramanathapuram District.

2.The Senior Manager,
Canara Bank,
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Paramakudi,
Ramanathapuram District.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-40287[F] dated 23/12/2021)

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22.12.2021

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