



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.387 of 2022

M/s.Saj Roofing Solutions Pvt. Ltd.,
rep. by its Director S.Cletus,
Old No.13/116-B, New No.8,
Golden Garden, Palappampatti,
Periyakottai Pirivu, Udumalpet,
Tiruppur District.

.. Petitioner

Vs.

1. M/s.Tamilnad Mercantile Bank Ltd.,
rep. by its Authorised Officer,
Udumalpet Branch,
D.No.2, Anusham Nagar,
Anusham Theatre Back Side,
Udumalpet - 642 126.
2. M/s.Sri Ram Tubes,
Having office at S.F.No.255/B1, Ponneri,
Kottamangalam Post,
Udumalpet - 642 201.

.. Respondents

Prayer: Petition under Article 226 of the Constitution of India seeking issuance of a writ of mandamus forbearing the first respondent bank from proceeding further with its Recovery Proceedings under the SARFAESI Act, in respect of Item No.6 property mentioned in its Auction Sale Notice dated 8.10.2011, viz., land of 2.54 acres in S.F.No.178/2 with buildings in Kannamanaickanur village, Udumalpet Taluk, Tiruppur District, pending disposal of I.A.No.3585 in SA No.674 of 2021 on the file of Debts Recovery Tribunal, Coimbatore.



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For the Petitioner : Mr.A.E. Ravi Chandran

For the Respondents : Mr.N.Dilip Kumar
for respondent No.1

ORDER

(Order of the Court was made by
the Hon'ble Acting Chief Justice)

The writ petition has been filed to seek a direction on the respondent bank not to proceed further in reference to the auction sale notice dated 8.10.2021 to sell the property at a lower price than was offered by the person brought by the petitioner.

2. The petitioner has taken the remedy of appeal before the Debts Recovery Tribunal and made an application for interim order, but the next date of hearing has been fixed by the Debts Recovery Tribunal as 10.2.2022. According to the petitioner, when the property sought to be auctioned may fetch a price of Rs.2.50 crore, it should not be sold by the respondent bank for Rs.2.10 crore and, therefore, the writ petition has been filed to forbear the respondent bank from proceeding further pursuant to the auction sale notice.

3. We have considered the submission made by the petitioner and find that the auction sale notice dated 8.10.2021 has already been challenged by the petitioner by making an appeal before the Debts Recovery Tribunal. Thus, for the same subject matter, the writ petition would not be maintainable and, that too, to seek an interim order while the appeal is pending before the Debts Recovery Tribunal. It is also a fact that an application was filed by the petitioner to expedite the hearing, which was allowed by advancing the date of hearing. Accordingly, the matter was heard by the Tribunal and thereupon adjourned to 10.2.2022. Before the Tribunal, the petitioner neither raised an objection to the date fixed, nor prayed for interim order on the grounds urged before us.

4. Apart from the aforesaid, simultaneous proceedings before the High Court is not permissible. In fact, if the respondent bank is proceeding further in the matter, the petitioner should have pressed the application before the Debts Recovery Tribunal and if a long date has been given, the petitioner could have filed an application for fixing an early date, as was done by the petitioner earlier. But, instead of doing that, a writ petition has been filed simultaneously, though not maintainable,



pending appeal before the Debts Recovery Tribunal seeking identical relief.

5. In view of the above, the writ petition is dismissed. However, the petitioner would not be precluded to avail the remedy before the Debts Recovery Tribunal on all the issues urged before this court.

There will be no order as to costs. Consequently, W.M.P.No.444 of 2022 is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sasi

To:

1. The Authorised Officer,
M/s.Tamilnad Mercantile Bank Ltd.,
Udumalpet Branch,
D.No.2, Anusham Nagar,
Anusham Theatre Back Side,
Udumalpet - 642 126.
2. The Presiding Officer,
The Debts Recovery Tribunal,
Coimbatore.

+1cc to Mr.A.E. Ravi Chandran, Advocate, S.R.No.2166
+1cc to Mr.N.Dilip Kumar, Advocate, S.R.No.2612
+1cc to Mr.E.Sathiyaraj, Advocate, S.R.No.2314

W.P.No.387 of 2022

SMI [co]
NSK 24/01/2022