

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2022

CORAM :

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

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.NO.6371 OF 2020

S.Harshanasabari

.. Petitioner

Vs.

1. The Authorised Officer
State Bank of India
URC Nagar, Erode.

2. Selvaraj.R

3. S.Ananthakumar

.. Respondents

[R3 impleaded vide order dated
30.06.2020 in WMP No.10459/2020]

Prayer:

Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records pertaining to the e-auction sale dated 26.02.2020 pursuant to the e-auction notice dated 23.01.2020 and quash the same and direct the first respondent to accept petitioner's payment.

For the Petitioner : Ms.S.Ambika
For Mr.K.Sasindaran

For the Respondents : Ms.S.R.Sumathy
for Respondent-1

ORDER

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

The writ petition was filed to challenge the auction sale notice dated 26.02.2020.

2. The writ petitioner, challenging the notice under Section 13(4) of the SARFAESI Act, filed an appeal before the Debts Recovery Tribunal, Coimbatore. Since the matter was not heard by the DRT, Coimbatore for want of Presiding Officer, the writ petition was filed, wherein, an order of status quo was passed.

3. It is submitted that the property mortgaged by the second respondent, who is the father of the petitioner, was put to auction and sale has been confirmed in favour of the third respondent. However, the sale certificate has not been issued on account of the interim order passed by this Court. The facts aforesaid are relevant as the petitioner, who obtained educational loan, has failed to repay the same. The property, which remains the subject matter of auction, was mortgaged even by the petitioner's father for obtaining housing loan. Since the petitioner's father also defaulted in making payment, the respondent bank conducted auction to recover the dues with interest towards both the loan.

4. It is further submitted that the appeal is pending before the DRT, Coimbatore and it has not been pursued by the petitioner on account of the interim order of this Court in the writ petition, as, at the relevant point of time, DRT, Coimbatore was not functioning for want of Presiding Officer, though the matters were attached to DRT, Madurai.

5. In view of the aforesaid, this writ petition is disposed of with liberty to the petitioner to pursue the pending appeal before the DRT, Coimbatore by getting it numbered and since there is an interim order of status quo during the intervening period, it is extended for a period of three weeks, to enable the petitioner to pursue her appeal before the DRT, Coimbatore. There will be no order as to costs. Consequently, WMP Nos.7518, 7517 and 22926 of 2020 are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kpl

To:

The Authorised Officer
State Bank of India
URC Nagar, Erode.

Copy To

The Registrar,
Debts Recovery Tribunal, Coimbatore.

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.42501

+1cc to Mr.A.Gokulakrishnan, Advocate, S.R.No.41834

W.P.No.6371 of 2020

GJ(CO)
PM/13/07/2022