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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2022

CORAM :

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

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU
W.P.NO.28092 OF 2021

1.A.Vadivel

2.A.Paramasivam

... Petitioners

Vs

1 The Authorized Officer
Karur Vysya Bank Ltd
1498- C KVB Towers 3rd Floor
Avinashi Road Peelamedu
Coimbatore Town and District.

2 The Karur Vysya Bank Ltd
By its Branch Manager, Deviyakurichi Branch
Thalaivasal Taluk Salem District.

3 Mass Realtors,
Rep.by its Managing Partner. Mr.K.Mohan
No.282 B Kartar Complex
Salem-Cuddalore Main Road
Narasingapuram Post Attur Taluk
Salem District- 636 108

4 The Presiding Officer
Debts Recovery Tribunal -I
Chennai.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 4th respondent in respect of the order in S.A.171/2020 dated 17.11.2021 and the consequential sale certificate dated 8.12.2021 bearing document No.6202/2021, SRO,



Chinnasalem, issued by the 1st respondent and quash the same and thereby forbear the respondents 1 to 3 from interfering in the petitioners property bearing Survey Nos. 19/1C-0.16½ cents, 19/1D-0.07½ cents, 19/1E-0.40 Cents, 19/1F- 0.10 cents, 19/2B-0.01 cents, 19/2C-0.02 cents and 19 /2D-0.04 cents totaling an extent of 0.81 acres situate at Chinnasalem North, Kallakurichi District formerly Villupuram District.

For the Petitioner : Mr.T.R.Rajagopalan,
Senior Counsel,
for Mr.N.Suresh

For the Respondents : Mr.Arun Babu,
for respondents 1 and 2

Mr.K.R.Samratt,
for third respondent

ORDER

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

The writ petition has been filed challenging the order dated 17.11.2021 passed by the Debts Recovery Tribunal, Chennai, in S.A.No.171 of 2020.

2. Learned Senior Counsel appearing for the petitioners referred to the order dated 27.11.2020 passed by the Tribunal, wherein the respondent bank was restrained from proceeding further, pursuant to the sale notice dated 23.10.2020, in the event the sale took place on 24.11.2020. The Tribunal also directed the petitioners to deposit a sum of Rs.2 lakh in the manner indicated in the order dated 27.11.2020.

3. The petitioners complied with the order passed by the Tribunal, and accordingly, the Tribunal passed an order on 22.12.2020 restraining the respondent bank from proceeding further in the matter till the next date of hearing that was fixed on 08.01.2021. On 08.01.2021, the Tribunal passed an order, impleading the auction-purchaser as a party respondent in an application filed by the auction-purchaser. The interim order earlier passed by the Tribunal was extended till 04.02.2021. It was to the surprise of the petitioners that on 17.11.2021, without specifying any reason, the Tribunal allowed the respondent bank to proceed further with the sale already



conducted. Earlier, the Tribunal had, by order dated 27.11.2020, passed an order restraining the respondent bank from proceeding further, and directed the petitioners to deposit a sum of Rs.2 lakh. The said order was extended twice on 22.12.2020 and 08.01.2021. In between, the matter was never heard by the Tribunal. On 17.11.2021, the impugned order was passed by the Tribunal without assigning any reasons. Thus, the challenge to the order dated 17.11.2021 has been made.

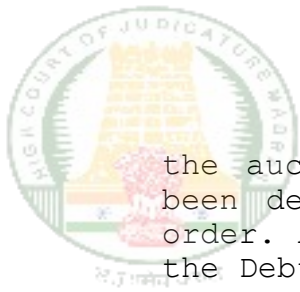
4. Learned counsel appearing for the respondents submits that auction of the sale took place pursuant to the sale notice dated 23.10.2020. The sale took place on 24.11.2020 and the same was confirmed and the auction-purchaser was subsequently impleaded as a party respondent, by order dated 08.01.2021. In view of the confirmation of sale, the Tribunal appropriately gave liberty to the respondent bank to proceed further with the sale already conducted. In view of the above, there is no reason to cause interference in the order. It is more so when the next date of hearing of the case is on 06.01.2022. Learned counsel would, therefore, pray to dismiss the writ petition.

5. We have heard the rival submissions of the parties and perused the records.

6. We find that the Tribunal, after considering the rival submissions, passed a detailed order on 27.11.2020 to permit the sale, pursuant to the notice dated 23.10.2020, but restrained the respondent bank from proceeding further till 22.12.2020. On 08.01.2021, the interim order was further extended till 04.02.2021.

7. From the above, it could be seen that the respondent bank was restrained from proceeding further pursuant to the sale of the property but by order dated 17.11.2021, the Tribunal, without assigning any reasons, allowed the bank to proceed further. It is pertinent to note that the conditional order passed by the Tribunal on 27.11.2020 was complied with by the petitioners, by depositing a sum of Rs.2 lakh. In view of the above, we find reasons to set aside the order dated 17.11.2021 with a direction to continue the interim order passed earlier by the Tribunal on 27.11.2020, and extended from time to time.

8. Accordingly, the petition is disposed of with an expectation from the parties to argue the pending appeal before the Tribunal on 06.01.2022. It is under the circumstance that



the auction-purchaser has already deposited the amount but has been denied possession of the property in view of the interim order. All the parties have also agreed to argue the case before the Debts Recovery Tribunal on 06.01.2022.

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9. With the aforesaid observations, the writ petition is disposed of. There will be no order as to costs. Consequently, WMP Nos.29666 to 29669 of 2021 are closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To:

- 1 The Authorized Officer
Karur Vysya Bank Ltd 1498- C KVB Towers
3rd Floor Avinashi Road Peelamedu
Coimbatore Town and District.
- 2 The Karur Vysya Bank Ltd
By its Branch Manager Deviyakurichi Branch
Thalaivasal Taluk Salem District.
- 3 The Presiding Officer
Debts Recovery Tribunal -I, Chennai.

+1cc to Mr.N.Suresh, Advocate, S.R.No.357

W.P.No.28092 of 2021

KSM(CO)
PM/07/01/2022