IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.Nos.31756 and 31832 of 2022

T.R.Vijayakumar .. Petitioner in both WPs

vs

1.The Authorised Officer,
State Bank of India,
Stressed Asset Management Branch,
1112, Raja Plaza, Avinashi Road,
Coimbatore-641 037.

2.The State Bank of India,
rep. by its Deputy General Manager,
SAMB Coimbatore (16454),
Raja Plaza, 1st Floor,
1112, Avinashi Road,
Coimbatore-641 037. .. Respondents in both WPs

Prayer: W.P.No.31756 of 2022 filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus forbearing the first respondent from confirming the sale if any held pursuant to the e-auction sale notice dated 21.9.2022 issued under

Rule 6(2) and 8(6) of the Security Interest (Enforcement) Rules, 2002 of the first respondent pending disposal of the appeal in AIR No.423 of 2022 on the file of the Debt Recovery Appellate Tribunal at Chennai.

W.P.No.31832 of 2022 filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents to invoke Rule 8(5)(d) of the Security Interest (Enforcement) Rules, 2002 by considering the Memorandum of Understanding with the interested purchaser's dated 09.03.2022, 06.04.2022, 20.04.2022 and 02.05.2022 consequently direct the second respondent to permit the petitioner to pursue the compromise advisory letter communicated by the second respondent through 3-mail communication dated 28.10.2022 to the petitioner by keeping in abeyance of further proceedings of the e-auction sale notice dated 21.09.2022 issued under 6(2) and 8(6) of Security Interest (Enforcement) Rules, 2002 of the first respondent and the order in I.A.No.4212 of 2022 in S.A.No.992 of 2022 dated 31.10.2022.

For the Petitioner : Mr.T.Murugamanickam
Senior Counsel
for M/s.R.Selvakumar

COMMON ORDER

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

The petitioner, T.R.Vijayakumar, has filed these two writ petitions. W.P.No.31756 of 2022 has been filed seeking a writ of mandamus forbearing the first respondent from confirming the sale, if any, held pursuant to the e-auction sale notice dated 21.9.2022 pending disposal of the appeal in A.I.R. No.423 of 2022 on the file of Debt Recovery Appellate Tribunal, Chennai. W.P.No.31832 of 2022 has been filed seeking a writ of mandamus directing the respondents to invoke Rule 8(5)(d) of Security Interest (Enforcement) Rules, 2002 by considering the Memorandum of Understanding entered into with the purchasers dated 9.3.2022, 6.4.2022, 20.4.2022 and 2.5.2022 and to direct the second respondent to permit the petitioner to pursue the compromise advisory letter communicated by the second respondent through e-mail communication dated 28.10.2022 by keeping in abeyance the further proceedings of the e-auction sale notice dated 21.9.2022 and the order dated 31.10.2022 passed in I.A.No.4212 of 2022 in S.A.No.992 of 2022 on the file of the Debts Recovery Tribunal, Coimbatore.

2. Learned senior counsel appearing for the petitioner submitted that the respondent bank declared the accounts of the

petitioner as NPA on 27.6.2021 by claiming a sum of Rs.52,94,14,231.26 as on 28.6.2021. On 3.11.2021, the petitioner deposited a sum of Rs.25 lakh and a further sum of Rs.10 lakh was deposited on 28.2.2022 towards the outstanding dues requesting the respondent bank to restructure the accounts. While so, an e-auction sale notice dated 21.9.2022 intending to conduct an auction on 31.10.2022 was issued claiming a sum of Rs.61,59,24,995/-. Aggrieved by the issuance of the e-auction sale notice, the petitioner has filed S.A.No.992 of 2022 before the Debts Recovery Tribunal, Coimbatore. By the order dated 31.10.2022, the Debts Recovery Tribunal, Coimbatore, passed a conditional order to deposit a sum of Rs.29 crore with the respondent bank, out of which Rs.14.50 crore was directed to be paid on or before 28.11.2022 and another sum of Rs.14.50 crore was to be paid on or before 26.12.2022. The Debts Recovery Tribunal also directed that the respondent bank, on receiving the sum as ordered, shall not confirm the sale, if any, held on the scheduled date of auction with an observation therein that if the petitioner failed to deposit any part of the sum as ordered by the Debts Recovery Tribunal, the respondent bank shall be at its liberty to confirm the sale.

3. Learned senior counsel further submitted that aggrieved by the conditional order passed by the Debts Recovery Tribunal, the petitioner has filed an appeal, being A.I.R.No.423 of 2022, along with application seeking waiver of the conditional order dated 31.10.2022, but the matter was not taken up when it was listed on 21.11.2022. He submitted that even thereafter the matter was not listed and as a result thereof, the date for making the initial payment with the respondent bank is lapsing and the petitioner is facing risk of losing the property, which is the subject matter of public auction.

4. Learned senior counsel also brought to our notice that the petitioner also made an application to the respondent bank seeking for providing one-time settlement (OTS). Learned senior counsel submitted that there is a Memorandum of Understanding entered between the petitioner and the third party purchasers and the same was also brought to the knowledge of the respondent bank.

5. Learned senior counsel further submitted that the application for OTS has been accepted and the respondent bank by their advisory letter dated 28.10.2022 advised the petitioner to pay 15% of the compromise offer amount. When the things stood thus, the conditional order passed by the Debts Recovery Tribunal is causing huge prejudice to the petitioner.

6. We find that as against the conditional order passed by the Debts Recovery Tribunal, Coimbatore in I.A.No.4212 of 2022 in S.A.No.992 of 2022, an appeal has been filed by the petitioner and the same is pending before the Debts Recovery Appellate Tribunal, Chennai. When the Debts Recovery Tribunal is seized of the matter and the appeal is also pending before the Debt Recovery Appellate Tribunal, Chennai, against the conditional order of deposit, we do not find any reason to entertain the writ petitions.

7. However, considering the facts and circumstances of the case, we hereby direct the Debt Recovery Appellate Tribunal,

Chennai, to take up the waiver application along with the appeal and dispose of the same on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order.

8. With the above observation and direction, the writ petitions are disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.31199 and 31295 of 2022 are closed.

(T.R., ACJ.) (D.K.K., J.)
28.11.2022

Index : Yes/No

Note to Registry:
Issue order copy on 29.11.2022

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To:

1.The Authorised Officer,
State Bank of India,
Stressed Asset Management Branch,
1112, Raja Plaza, Avinashi Road,
Coimbatore-641 037.

2.The Deputy General Manager,
State Bank of India,
SAMB Coimbatore (16454),
Raja Plaza, 1st Floor,
1112, Avinashi Road,
Coimbatore-641 037.

T.RAJA, ACJ.
AND
D.KRISHNAKUMAR,J.

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