



W.P.No.32782 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2022

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.32782 of 2022

1.P.Parvathi
2.S.Sivagami

.. Petitioners

Vs

1.S.Dhanabalan
2.M/s.State Bank of India,
rep. by its Authorized Officer,
SME P.N.Road Branch,
No.54, First Floor,
Uthukuli Road,
Tiruppur-641 601.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records of I.A.No.1478/2022 in S.A.No.385/2022, dated 05.07.2022 on the file of learned Debts Recovery Tribunal at Coimbatore and quash the same and consequently direct the Chief Judicial Magistrate to appoint advocate commissioner to take physical possession and hand over to the petitioners.



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For the Petitioners : Mr.V.Jayaprakash Narayanan

ORDER

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

W.M.P.No.32188 of 2022 filed to permit the petitioners to file a single writ petition is allowed, inasmuch as the petitioners have paid separate sets of court-fee.

2. The petitioners, who are auction purchasers of the property of an extent of 80 cents in S.F.No.166/A2 of K.Krishnapuram Village, Palladam Taluk, have unnecessarily come to this court challenging the conditional order dated 5.7.2022 made in I.A.No.1478 of 2022 in S.A.No.385 of 2022 passed by the Debts Recovery Tribunal, Coimbatore.

3. We are unable to find any justification to entertain this writ petition for the following three reasons. Firstly, the petitioners, having been declared as successful bidders in a public auction, were issued a sale certificate on 9.12.2021. Secondly, when the borrower



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has filed S.A.No.385 of 2022, the Debts Recovery Tribunal, Coimbatore, has passed a conditional order on 5.7.2022 and the matter is posted for further hearing on 13.7.2022. The petitioners are arrayed as contesting respondents in the said proceedings. Therefore, the petitioners can very well move a vacate stay petition narrating all the facts averred in the affidavit filed in support of this writ petition. Thirdly, when the petitioners are impleaded as necessary parties in the pending S.A.No.385 of 2022 filed by the borrower, they have an effective remedy before the Debts Recovery Tribunal, if not they can approach the Debt Recovery Appellate Tribunal. Without availing the aforementioned remedies, the writ petition cannot be entertained.

4. In such view of the matter, the writ petition is dismissed. However, we grant liberty to the petitioners to move a vacate stay petition before the Debts Recovery Tribunal, Coimbatore, if so advised. If such application is filed by the petitioners, the Debts Recovery Tribunal shall consider the same on merits and pass appropriate orders expeditiously.



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There will be no order as to costs. Consequently

W.M.P.No.32189 of 2022 is closed.

(T.R., ACJ.) (D.B.C., J.)
07.12.2022

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sasi

To:

The Authorized Officer,
State Bank of India,
SME P.N.Road Branch,
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T.RAJA, ACJ.
AND
D.BHARATHA CHAKRAVARTHY, J.

(sasi)

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