



W.P. No.33714 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2022

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P. No.33714 of 2022

K.S.Gita

... Petitioner

Vs

1.IDBI Bank,
Rep by its Authorised Officer
No.115 Anna Salai, PB No.805
Saidapet, Chennai- 600 015.

2.Meera Arun
3.Bala Yudish Murugaiah Arun
4.Tharana Arun
5.Rajeshwari

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus to direct the 1st Respondent bank to restore the e-auction held on 16.06.2022 and to complete the sale in favour of petitioner after the receipt of the bid amount of Rs.9,20,00,000/- (Rupees Nine Crore and Twenty lakh Only) on or before the appointed date as fixed by this Honble Court.

For the Petitioner

: Mr.S.Kanmani Annamalai



W.P. No.33714 of 2022

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ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioner has filed this writ petition to direct the first respondent bank to restore the e-auction held on 16.06.2022 and complete the sale in favour of the petitioner, after receiving the bid amount of Rs.9.20 Crore.

2. Learned counsel for the petitioner would submit that when the respondent bank has issued sale notice dated 12.05.2022 for conducting e-auction of the residential plot at No.199, St.Marys Road, Alwarpet, Chennai 600 018, the petitioner proposed to purchase the said property and submitted an application on 14.06.2022 together with EMD amount of Rs.9.20 Crore. The same was also acknowledged. When e-auction was held on 16.06.2022, the petitioner participated in the bid and he has been declared as the successful bidder. Thereafter, on 30.06.2022, the first respondent bank informed the petitioner that they had cancelled the e-auction held on 16.06.2022 due to administrative reasons, without pointing out any other reasons and requested the petitioner to furnish the bank details to return the EMD amount.

3. According to the petitioner, the approach adopted by the respondent bank is unjustified and untenable in law. Therefore, the petitioner has approached this court for issuance of a Writ of Mandamus as mentioned above.



W.P. No.33714 of 2022

WEB COPY

4. A perusal of the typedset of papers would reveal that the petitioner has not even made any representation to the respondent so far. Rule 13(2) of the Madras High Court Writ Rules, 2021 mandates giving a representation to the respondent and thereafter, if no action is taken/or reply given, only then a writ petition would lie. Since that pre-condition has not been complied with, the writ petition is liable to be dismissed.

5. Secondly, the petitioner has got an efficacious alternate remedy before the Debts Recovery Tribunal, under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. When the petitioner has got a remedy, he cannot come to this court by way of this writ petition. Therefore, the writ petition fails and the same is dismissed. There will be no order as to costs. WMP No.33203 of 2022 is closed.

(T.R., ACJ.) (D.B.C., J.)
15.12.2022

Index: Yes/No
tar

To
The Authorised Officer,
IDBI Bank,
No.115 Anna Salai, PB No.805

<https://www.mhc.tn.gov.in/judis>



W.P. No.33714 of 2022

Saidapet, Chennai- 600 015.

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W.P. No.33714 of 2022

T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY, J.

(tar)

W.P. No.33714 of 2022

15.12.2022