



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2022

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

**W.P. (MD) No.390 of 2022
and
WMP (MD) Nos.299 & 302 of 2022**

1.M/s.Pagampiriyal Traders
Represented by its Proprietor,
Mr.R.Asokan

2.Mrs.Vijaya ... Petitioners

Vs.

1.The Authorized Officer,
The Union Bank of India,
Kalayarkovil Branch,
Annai Complex, Arulsamy Building,
Madurai - Thondi Road,
Kalayarkovil - 630 551
Sivagangai District.

2.The Branch Manager,
The Union Bank of India,
Kalayarkovil Branch,
Annai Complex, Arulsamy Building,
Madurai - Thondi Road,
Kalayarkovil - 630 551
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, forbearing the respondents from taking any coercive steps pursuant to sale notice dated 30.12.2021, pending the disposal of the S.A.No.566 of 2021, on the file of the Debt Recovery Tribunal, Madurai.

For Petitioners : Mr.K.Baalasundharam

For Respondents : Mr.N.Dilip Kumar



O R D E R

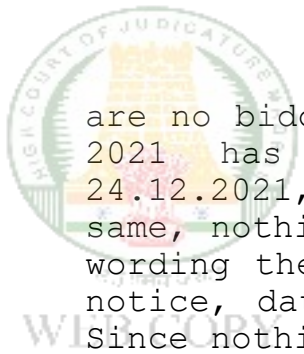
[Order of the Court was made by S.VAIDYANATHAN, J.]

The Writ Petition has been filed praying for issuance of a Writ of Mandamus, forbearing the respondents from taking any coercive steps pursuant to sale notice, dated 30.12.2021, pending disposal of S.A.No.566 of 2021, on the file of the Debt Recovery Tribunal, Madurai,

2. Mr.K.Baalasundharam, the learned counsel appearing for the petitioners would submit that the first petitioner is the proprietor of a business of firewood, under the name and style of 'M/s.Pagampiriyal Traders'. He availed a cash credit loan in the year 2017, for a total amount of Rs.21,00,000/- from the erstwhile Corporation Bank, Kalayarkovil Branch, under Cash Credit Loan Account No.18270310117003. The Corporation Bank was subsequently merged with the Union Bank in the year 2019. The loan account was converted from Cash Credit to Over Draft in A/C.No.565141000018445. The 2nd petitioner is the guarantor for the said loan and had pledged her own properties. Further, the Respondent Bank declared the Loan Account as NPA on 31.12.2019. When the petitioners approached, the respondent Bank directed to the petitioners to deposit an amount of Rs.63,000/- to have the NPA categorization of the loan account removed, which he did.

3. The learned counsel appearing for the petitioners would further submit that on 06.11.2021, the respondent Bank, issued a sale notice informing that the properties of the 2nd respondent will be sold by public auction on 16.12.2021. Subsequently, the petitioners filed an appeal before the Debt Recovery Tribunal, Madurai, in S.A.No.566 of 2021. The Presiding Officer, DRT, Coimbatore, who is incharge of DRT, Madurai, on 10.12.2021 heard the matter and adjourned the same for appearance of the respondents. The petitioners thus preferred a Writ Petition in W.P(MD)No.22282 of 2021, challenging the said Notice. This Court vide order dated 16.12.2021 dismissed the writ petition stating that the sale did not proceed due to non receipt of any bids and declared the prayer in the Writ Petition as infructuous. The respondents have pasted another notice dated 31.12.2021 on 03.01.2022 under the provisions of Rule 8 of Security Interest (Enforcement) Rules, 2002, informing the sale of immovable secured asset. The auction is scheduled as an E-Auction on 20.01.2022 between 11.00 a.m., and 3.00 p.m., through online mode. It is the contention of the petitioners that no coercive steps shall be taken during pendency of the SARFAESI Appeal in S.A.No.566 of 2021, on the file of the Debts Recovery Tribunal, Madurai.

4. As there was no bidder, the action could not take place. The Bank is contemplating issuance of fresh sale notice, as there



are no bidders available. The I.A.No.976 of 2021 in S.A.No.566 of 2021 has already been disposed of and on the very same day viz., 24.12.2021, the SARFAESI Appeal was also dismissed. In view of the same, nothing survives in the present Writ Petition. Inartistically wording the prayer, the petitioners have challenged the second sale notice, dated 30.12.2021, fixing the date of action on 20.01.2022. Since nothing survives in the SARFAESI Appeal in S.A.No.566 of 2021, it is open to the petitioners to challenge the sale notice in accordance with law before the appropriate forum.

5. At the time of dictating the order, it is represented by the learned counsel for the petitioners that the petitioners are willing to pay the amount due to the Bank. If the entire amount is paid, before conclusion of the sale, it is open to the Bank to accept the amount and release the properties in favour of the petitioners.

6. In the result, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS I)

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Sub Assistant Registrar(CS)

MPK

To

1.The Authorized Officer,
The Union Bank of India,
Kalayarkovil Branch,
Annai Complex, Arulsamy Building, Madurai - Thondi Road,
Kalayarkovil, Sivagangai District - 630 551.

2.The Branch Manager,
The Union Bank of India,
Kalayarkovil Branch,
Annai Complex, Arulsamy Building,
Madurai - Thondi Road,
Kalayarkovil, Sivagangai District- 630 551.

3.The Presiding Officer,
Dept. Recovery Tribunal, Madurai.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-1232[F] dated 11/01/2022)

W. P. (MD) No. 390 of 2022

10.01.2022