



WEB COPY

W.P(MD)No.628 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P (MD) No.628 of 2022

and

W.M.P (MD) Nos.505 and 506 of 2022

S.Kumarasamy

.. Petitioner

Vs.

The Authorized Officer,
Tamilnadu Mercantile Bank Ltd.,
14-1-14 (14), A.S.A.R.A. Complex,
Sankarankovil Main Road,
Surandi, Tirunelveli District.

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire record pertaining to the impugned 4th sale notice dated 03.01.2022 schedule auction on 24.01.2022 at 03.30 PM and impugned 5th Sale Notice dated 03.01.2022 scheduled auction on 07.02.2022 at 03.30 PM issued by the respondent bank and pass such further or other orders.

For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondent : Mr.T.Thevan

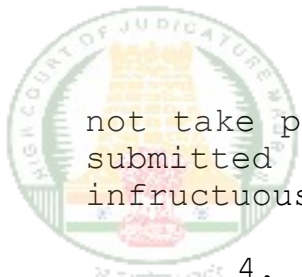
ORDER

[Made by PARESH UPADHYAY, J.]

The petitioner challenges the auction of his property by the respondent bank, which was scheduled on 07 February 2022. According to the respondent bank, the petitioner is the defaulter.

2. Learned advocate for the petitioner has submitted that, the default has taken place from February 2020, for the circumstances not within the control of the petitioner. It is submitted that this petition be entertained.

3. Learned advocate for the respondent bank has submitted that, the petitioner had already approached the Debts Recovery Tribunal at the relevant time and subsequently notice is challenged in this petition. It is further submitted that the auction could



not take place on 07.02.2022, since no bidder came forward. It is submitted that considering this, this petition has become infructuous.

4. Having heard the learned advocates for the respective parties and having considered the material on record this Court finds as under:

4.1 This petition could have been filed before the Debts Recovery Tribunal. The petitioner is not before proper forum.

4.2 Additionally, we find that, this is not the case of a small time trader or a poor person, which needs to be accommodated in extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, even on the basis of alternative remedy. As the pleading goes, the petitioner was in granite quarrying business. We find that the discretion need not be exercised in this petition.

5. For the above reasons, this petition is dismissed. No costs. Consequently connected Miscellaneous Petitions are rejected.

Sd/-

Deputy Registrar(LA & MC)

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/ /2022

Sub Assistant Registrar(CS)

smn/24

+1 CC to M/s.P.M.VISHNUVARTHANAN, Advocate (SR-7909[F] dated 22/02/2022)

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RJ(CO)
TR(08.03.2022) 2P 2C