



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD)No.609 of 2022

and

WMP(MD)No.489 of 2022

S.Murugan

... Petitioner

Vs.

1.The Debts Recovery Tribunal,
IV, Floor, Kalyani Tower,
Melur Road, Madurai.

2.The Authorized Officer,
Tamilnadu Mercantile Bank Limited,
Nos.16 & 17, Gnanagiri Road,
Palaniandavarpuram Colony,
Sivakasi - 626 189,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned Auction Sale Notice issued by the 2nd respondent dated 24.12.2021 fixing the date of sale on 12.01.2022 and quash the same.

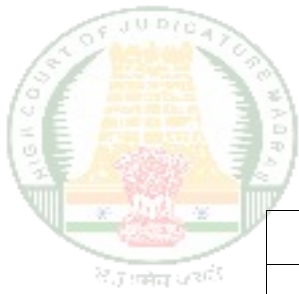
For Petitioner : Mr.S.Suresh
For M/s.Aiyar @ Dolia
For Respondents : Mr.N.Dilip Kumar

O R D E R

[Order of the Court was made by DR.G.JAYACHANDRAN,J.]

The petitioner herein before this Court seeking indulgence to quash the sale notice dated 24.12.2021 in respect of an E-auction sale notice issued by the 2nd respondent for recovery of the money due from the petitioner herein.

2. In earlier round of litigations, this Court, recording the undertaking given by the petitioner herein, has disposed the Writ Petition on condition that the petitioner shall make a payment as per the following schedule.



DATE	AMOUNT
07.12.2021	Rs.10,00,000/-
07.12.2021	Rs.10,00,000/-
15.12.2021	Rs.10,00,000/-
22.12.2021	Rs.10,00,000/-
29.12.2021	Rs.10,00,000/-
04.01.2022	Rs.10,00,000/-
10.01.2022	Rs.10,00,000/-
18.01.2022	Rs.10,00,000/-
25.01.2022	Rs.10,00,000/-
02.02.2022	Rs.10,00,000/-
10.02.2022	Rs.10,00,000/-
22.02.2022	Balance Payment

3. Since the petitioner has not kept his promise and honoured the undertaking, the 2nd respondent Bank has proceeded with the impugned auction notice. This Court finds no illegality in the said auction notice.

4. The learned Standing Counsel appearing for the respondents would submit that as on the date of auction notice, even according to his own undertaking the petitioner should have paid Rs.70,00,000/-, but has paid only Rs.40,00,000/-. Since there is a breach of his own undertaking and the order of the Court dated 08.12.2021 is very specific that in the event the petitioner failed to pay the instalments, the impugned notice of the first respondent Bank dated 09.11.2021 can be put into execution.

5. This Court finds that the auction is fixed today at 4.00 p.m. The learned counsel for the petitioner would submit that he will pay the balance sum of Rs.40,00,000/- that is due upto 19.01.2022 by 4.00 p.m., of 19.01.2022. In case of any default in payment, the auction to be held on today, shall be confirmed. This Court makes it very clear that the remaining amount shall also be paid as per his undertaking, dated 08.12.2021.



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6. The Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar(CS)

MPK

To

1.The Debts Recovery Tribunal,
IV, Floor, Kalyani Tower,
Melur Road,
Madurai.

2.The Authorized Officer,
Tamilnadu Mercantile Bank Limited,
Nos.16 & 17, Gnanagiri Road,
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Sivakasi - 626 189,
Virudhunagar District.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-1764[F] dated 19/01/2022)

ORDER MADE IN
W.P. (MD) No. 609 of 2022
12.01.2022

NSN(CO)

GC(27.01.2022) 3P 4C