



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)Nos. 3356 and 3366 of 2022

Murugan

.. Petitioner in W.P.(MD) No.
3356 of 2022

M/s.Om Sri Hallow Blocks & Cement,
Rep. by Proprietor Menaga,
W/o. Murugan,
3/190A Sholavandan Main Road,
K.Puliyankulam,
Thirumangalam Taluk,
Madurai District.

.. Petitioner in W.P.(MD) No.
3366 of 2022

Vs

1. The Assistant General Manager /
Authorized Officer,
Indian Bank, Madurai Main Branch,
100-101 East Avani Moola Street,
Madurai.

2. The Branch Manager,
Indian Bank,
Anna Nagar Branch,
Madurai - 625 020.

.. Respondents
in both petitions

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st Respondent in his proceedings No. NIL dated 27.01.2022 and quash the same as illegal, arbitrary, violation of law and further directing the 1st Respondent to extend the time to pay the remaining amount.

For Petitioner : Mr.M.Jothi Basu
(in both writ petitions)

For Respondents : Mr.Pala Ramasamy
Standing Counsel
(in both writ petitions)



COMMON ORDER

(Made by PARESH UPADHYAY, J.)

1. The petitioners are husband and wife. They are the successful bidders in the auction held by the respondent bank, for default of some borrowers in repayment.

2. Heard Mr.M.Jothi Basu, learned advocate for the petitioners and Mr.Pala Ramasamy, learned advocate for the respondents.

3. It is noted that, learned advocate for the petitioners has relied on the decision of the Division Bench of this Court in the case of M/s.MSKG Engineering Consultancy Services Partnership Firm v. State Bank of India Stressed Assets Management Branch, reported in (2018) 2 L.W.568.

4. Having heard learned advocates for the respective parties and having considered the material on record we find that, what is agitated in these petitions can be better addressed by the statutory remedy under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Therefore, in the facts of these cases, we are not inclined to exercise our discretion under Article 226 of the Constitution of India. We have taken into consideration the decision relied by the learned advocate for the petitioner. Even then, we find that, in the facts of these cases, it is not prudent to consider the case on merits. It would even not be in the interest of the petitioners, if the same is considered by this Court on merits. It may affect the right of appeal of any of the parties, may be petitioners as well. Let it be considered by an appropriate forum. While not exercising discretion here, we make it clear that, we have not examined the merits of the matter.

5. These petitions are disposed of in above terms. No costs.

Sd/-

Assistant Registrar(AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

1. The Assistant General Manager /
Authorized Officer,
Indian Bank, Madurai Main Branch,
100-101 East Avani Moola Street,
Madurai.

2. The Branch Manager,
Indian Bank,
Anna Nagar Branch,
Madurai - 625 020.

+1 CC to M/s.G.M.LAW OFFICE (M/S.M.JOTHI BASU), Advocate (SR-8278[F]
dated 24/02/2022)

W.P(MD)Nos.3356 and 3366 of 2022

23.02.2022

SS (05.03.2022) 3P 4C