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W.P.(MD)No.8108 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P(MD)No.8108 of 2022

and W.M.P.(MD) No.6049 of 2022

1.M/s.Pagampiriyal Traders,
Rep. by its Proprietor,
Mr.R.Ashokan,
S/o. Ramasamy,
Having address at
No.4884, Moorthi Nagar,
Kalayarkovil,
Sivagangai District.

2.Mrs.Vijaya

... Petitioners

Vs.

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

2.The Branch Manager,
Union Bank of India,
Kalayarkoil Branch,
Annai Complex,
Arulsamy Building,
Madurai Thondi Road,
Kalayarkoil,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned e-auction sale notice issued by the first respondent dated 05.04.2022 whereby it was decided to conduct the sale of petitioner's property on 29.04.2022 between 11 a.m. to 3 p.m. under Rule 8(2) of the SARFAESI Act and quash the same.

For Petitioners

: Mr.A.Shajahan

For Respondents

: Mr.N.Dilipkumar

Standing Counsel



ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

The petitioners have filed the writ petition, challenging the e-auction sale notice dated 05.04.2022 issued by the respondent bank, fixing the sale on 29.04.2022 between 11.00 AM and 3.00 PM.

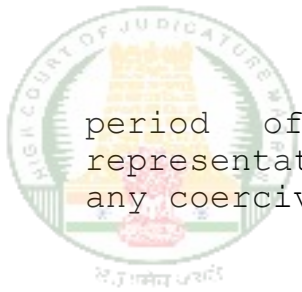
2. When the writ petition was entertained on 26.04.2022, this Court has granted interim stay on condition to deposit a sum of Rs.6,50,000/- (Rupees Six Lakhs and Fifty Thousands only) on or before 28.04.2022 and deposit a further sum of Rs.6,50,000/- (Rupees Six Lakhs and Fifty Thousands only) on or before 27.05.2022 by the petitioners.

3. Learned counsel for the petitioners as well as learned Standing Counsel for the respondent bank have admitted that the petitioners have complied with the conditions as directed by this Court in the order dated 26.04.2022.

4. In view of the fact that this Court had granted interim stay, there was no sale as scheduled in the sale notice. Therefore, the prayer in the Writ Petition has now become infructuous. Accordingly, the Writ Petition is dismissed as infructuous. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

5. From the facts that are narrated in the affidavit filed in support of the writ petition and the submission of learned Standing Counsel for the respondent Bank, this Court finds that the petitioners have paid substantial amount viz., Rs.13,00,000/- without touching the security offered to the Bank. It is submitted that the petitioners' One Time Settlement Offer was rejected by the Bank without assigning proper reason. Whether it is true or not, having regard to the total outstanding amount and the fact that the petitioners had paid a substantial amount pursuant to the directions of this Court, this Court is of the view that the petitioners are entitled to make a representation for One Time Settlement and it should be considered by the Bank in the light of the Reserve Bank guidelines and the policy of the Bank and the Government, keeping in mind honest borrowers should always be respected so that the Bank will promote their business and contributes to the economic growth of the country to a great extent.

6. In view of the above submissions, the petitioners shall submit a fresh representation for One Time Settlement to the respondent bank within a period of two weeks from today. In case, the petitioners have made such representation within the said time, the respondent Bank shall consider the same and pass orders within a



period of four weeks from the date of receipt of such representation. Till such time the respondent Bank shall not take any coercive steps by proceeding against the secured asset for sale.

Sd/-

Assistant Registrar()

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Sub Assistant Registrar(CS)

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TO

1.The Authorized Officer,
Union Bank of India,
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Madurai Thondi Road,
Kalayarkoil,
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2.The Branch Manager,
Union Bank of India,
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Annai Complex,
Arulsamy Building,
Madurai Thondi Road,
Kalayarkoil,
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+1 CC to M/s.A.SHAJAHAN, Advocate (SR-25118[F] dated 10/06/2022)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-25129[F] dated 10/06/2022)

W.P (MD)No.8108 of 2022
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SG(CO)

KB(17.06.2022) 3P 5C