



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2022

CORAM:

**THE HONOURABLE MR.JUSTICE S.S. SUNDAR
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.P.(MD).No.12158 of 2022

and

W.M.P(MD)No.8654 of 2022

N.Narayanan

.. Petitioner

Vs.

1.The Authorized Officer,
Indian Overseas Bank,
Regional Office,
552/3, MS Road, Vettornimadam,
Nagercoil-629 003

2.The Branch Manager,
Indian Overseas Bank,
Kadaiyal-Kaliyal Branch,
17-15, Kadaiyal Junction,
Kaliyal,
Kanyakumari-629 101.

..Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, to call for the records relating to the E-Auction sale notice dated 27.05.2022 under Rule 8(6) of Security Interest (Enforcement) Rules, 2002 issued by the 1st respondent bank and quash the same.

For Petitioner : Mr.P.Thirumahilmaran

For R : Mr.R.Pandivel
Standing Counsel for Bank

ORDER

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

Challenging the E-Auction sale notice, dated 27.05.2022, issued by the respondent Bank, the above writ petition is filed by the petitioner.



2. Heard Mr.P.Thirumahil Maran, learned counsel appearing for the petitioner and Mr.R.Pandivel, learned Standing Counsel appearing for the respondent Bank.

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3. Even as per sale notice, the outstanding as on date is Rs.27,23,327/-. The respondent bank has advertised for the sale of two items of the properties. The reserved price fixed for the first item is Rs.20,16,850/- and the reserved price for the second time is Rs.69,70,074/-. It is not necessary for the respondent bank to bring both the properties. When the upset price of one of the two items is sufficient to cover the entire liability, the bank has issued the sale notice by bringing two items of the properties, the value of which, is more than four times the liability as on date. The other irregularity is that the sale notice is short for 30 days as contemplated under Rule 8(6) of the Security Interest Enforcement Rule 2002.

4. Be that as it may, the learned counsel appearing for the petitioner/borrower submits that the petitioner may be permitted to negotiate for one time settlement.

5. The learned counsel appearing for the respondent bank states that the respondent bank may consider the proposal only if the petitioner make substantial payment.

6. Though the irregularities have been pointed out as above, the sale notice itself is illegal and hence, this Court is inclined to allow the writ petition by quashing the impugned sale notice. Accordingly, this writ petition is allowed. However, at the request of the learned counsel appearing for the petitioner and the representation submitted by the learned counsel for the respondent bank, this Court is inclined to pass the following order:

(i) The petitioner may make a payment of Rs.3,00,000/- (Rupees Three Lakhs only) towards the loan account on or before 15.07.2022, to the bank and a further sum of Rs.3,00,000/- (Rupees Three Lakhs only) on or before 18.08.2022. On such payment being made by the petitioner to the Bank, the respondent Bank may consider one time settlement proposal, which may be extended to the petitioner as per the norms of the Reserve Bank of India or as per the scheme now announced by the Bank.

(ii) It is open to the bank to proceed further by bringing any one of the properties for sale, in case, the petitioner commits default of any one of the installments. In case, the petitioner comply with the condition, the respondent bank shall not proceed against the property, unless they consider one time settlement offer, by giving sufficient time, as the petitioner has shown his bona fides in settling the amount due.



No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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/06/2022

Sub Assistant Registrar(CS)

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To

1.The Authorized Officer,
Indian Overseas Bank,
Regional Office,
552/3, MS Road, Vettornimadam,
Nagercoil-629 003

2.The Branch Manager,
Indian Overseas Bank,
Kadayal-Kaliyal Branch,
17-15, Kadayal Junction,
Kaliyal,
Kanyakumari-629 101.

+1 CC to M/s.P. THIRUMAHILMARAN, Advocate (SR-26286[F] dated 16/06/2022)

W.P.(MD).No.12158 of 2022

and

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