



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.12207 of 2022

and

W.M.P(MD)Nos.8684 and 8685 of 2022

Mr.R.Pattusamy

.. Petitioner

Vs.

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

2.The Authorized Officer,
Union Bank of India,
Kabaliparai Branch,
No.138, Near Bus Stand
Main Road, Kabaliparai Post,
Kabaliparai-627 602,
Tirunelveli District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling for the records pertaining to the impugned E-Auction Sale Notice of the 2nd respondent dated 10.05.2022 fixing the date of sale on 17.06.2022 issued under Section 13(4) of the SARFAESI Act 2002 and quash the same.

For Petitioner : Mr.S.Suresh
For R1 : Mr.V.Malaiyendran
Standing Counsel
For R2 : Mr.N.Dilipkumar
Standing Counsel

ORDER

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

Challenging the sale notice fixing the date of E-Auction sale on 17.06.2022, the above writ petition is filed.



2. Heard Mr.S.Suresh, learned counsel appearing for the petitioner, Mr.V.Malaiyendran, learned Standing Counsel appearing for the first respondent and Mr.N.Dilipkumar, learned Standing Counsel appearing for the second respondent.

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3. The learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the Bank submitted that total liability, as on date in respect of the loan, in which, E-auction notice issued, is only Rs.2,81,392/-.

4. It is seen from the auction notice, the reserved price for the properties, which was brought for sale, is Rs.20,90,000/-. The petitioner states that the petitioner is ready and willing to settle the entire dues, however, seeks two months time to make payment in two installments and seeks indulgence for availing some concession by way of one time settlement.

5. Considering the facts and circumstances of the case and also considering the submissions made on either side, this Court is inclined to entertain the writ petition. Since the petitioner has no effective alternative remedy as on date and has come forward with a good intention to settle the entire dues, to show his *bona fide*, this writ petition is allowed by setting aside the impugned sale auction notice dated 10.05.2022:

(i) On condition that the petitioner pays a sum of Rs.1,00,000/- on or before 30.06.2022, before the bank. On such payment being made by the petitioner to the Bank on or before 30.06.2022, the respondent Bank may consider the eligibility of the petitioner to extend one time settlement proposal, if it is permissible or feasible, as per the norms of the Reserve Bank of India.

(ii) In case, the petitioner is eligible for any concession that may also be extended without any discrimination based on the value of the property, which is offered as security, for the loan transaction, the Bank may give the proposal on or before 30.06.2022. Upon such offer being made, it is open to the petitioner to avail the same strictly in terms of the proposal or offer of the respondent Bank. If the proposal is rejected for valid reason, the petitioner shall pay the balance outstanding within two months from the date of communication by Bank.

(iii) In case, the petitioner is unable to comply with the condition regarding the first installment, it is open to the respondent Bank to proceed further with the sale, without further reference to this Court and ignoring the order passed in this writ petition.



No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

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// True Copy //

/06/2022

Sub Assistant Registrar(CS)

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To

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

2.The Authorized Officer,
Union Bank of India,
Kabaliparai Branch,
No.138, Near Bus Stand
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+1 CC to M/s.N. DILIPKUMAR, Advocate (SR-26588[F] dated
17/06/2022)

W.P. (MD) .No.12207 of 2022

and

W.M.P (MD) Nos.8684 and 8685 of 2022

16.06.2022

nsn(CO)

TR(28.06.2022) 3P 4C