



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2022

CORAM:

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

W.P. (MD) .No.12380 of 2022

and

W.M.P (MD) Nos.8788, 8790 and 8793 of 2022

1.M/s.Matha Sea Foods,
Propx: T.Pushpa Latha,
7/275A, Enayamputhenthurai Post,
Kanyakumari District.

2.Mr.Arul Burno Navis,
No.2/275A, Enayamputhenthurai Post,
Kanyakumari District.

.. Petitioners

Vs.

1.The Debts Recovery Tribunal,
Madurai, 3rd & 4th Floor,
Kalyani Tower,
Uthankudi,
Madurai.

2.The Authorized Officer,
Union Bank of India,
(Erstwhile Corporation Bank)
Marthandam Branch,
S.V.Mall, No.1-41/A4, Main Road,
Pammam, Marthandam Post,
Kuzhithurai, Marthandam-629 165,
Vilavancode Taluk,
Kanyakumari 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 sale notice of the 2nd respondent duly published in "THE NEW INDIAN EXPRESS" on 05.06.2022 and fixing the E-auction sale on 20.06.2022 issued under Section 8 of Security Interest (Enforcement) Rules, 2002 and quash the same.



For Petitioners : Mr.T.Thevan
For R1 : Mr.V.Malaiyendran
For R2 : Mr.R.Pandivel
Standing Counsel for Bank

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ORDER

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

Challenging the impugned sale notice issued by the second respondent dated 05.06.2022 and fixing the E-auction sale on 20.06.2022 issued under Section 8 of the Security Interest (Enforcement) Rules, 2002, the above writ petition is filed.

2.Heard Mr.Thevan, learned counsel appearing for the petitioners, Mr.V.Malaiyendran, learned counsel appearing for the first respondent and Mr.R.Pandivel, learned Standing Counsel appearing for the second respondent.

3.Realizing some irregularities, it appears that the respondent has not proceeded with the sale as per the sale notice dated 05.06.2022.

4.The learned counsel appearing for the petitioners states that the petitioners had obtained an order of interim stay on condition that the petitioners shall pay a sum of Rs.4,59,000/- in two installments and the petitioners have also complied with the direction of the Tribunal. Despite the stay granted by the Tribunal, which is in force, the petitioners states that the respondents have proceeded with sale, which is contrary to the order of interim stay granted by the Tribunal. The learned counsel appearing for the petitioners further states that the respondent Bank shall not be permitted to include the cost of such sale in the loan account. It is true that the sale is utter disobedience of order of tribunal is illegal.

5.It is open to the respondent Bank to consider the representation submitted by the petitioners before the respondent Bank favourably. However, as reported by the learned counsel appearing for the respondent Bank, the sale was not conducted as scheduled in the impugned notice. Hence, the prayer in the writ petition has become infructuous.

6.Accordingly, this Writ Petition is dismissed as infructuous. However, it is open to the petitioners to make further representation to the respondent Bank not to include any amount towards sale, as the sale is contrary to the interim order granted



by the Tribunal. When a representation is made by the petitioners, that shall be favourably considered. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

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To

- 1.The Debts Recovery Tribunal,
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Uthankudi,
Madurai.
- 2.The Authorized Officer,
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(Erstwhile Corporation Bank)
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nsn(CO)

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