



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.12321 of 2022

and

W.M.P (MD) Nos.8759 and 8762 of 2022

M/s.Hyla Sea Foods,
Managing Partner Arul Bruno Navis
7/394C, Aerathenguvilai,
Enayamputhenthurai Post,
Kanyakumari District.

.. Petitioner

Vs.

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

2.The Authorized Officer,
Union Bank of India,
(Ersthile Corporation Bank)
Marthandam Branch
S V Mall, No.1-41/A4, Main Road,
Pamman, 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 dated 13.05.2022 and fixing the E-auction issued under Section 8 of the Security Interest (Enforcement) Rules, 2002 and quash the same.

For Petitioner : Mr.T.Thevan

For R2 : Mr.R.Pandivel

Standing Counsel for Bank

ORDER

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

Challenging the impugned sale notice issued by the second respondent dated 13.05.2022 and fixing the e-auction 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 petitioner and Mr.R.Pandivel, learned Standing Counsel appearing for the second respondent.

3.Realizing some irregularities, it appears that the respondent Bank has not proceeded with the sale as per the sale notice dated 13.05.2022.

4.The learned counsel appearing for the petitioner states that the petitioner has obtained an order of interim stay on condition that the petitioner shall pay a sum of Rs.13,14,000/- in two installments and the petitioner has also complied with the direction of the Tribunal. Despite the stay granted by the Tribunal, which is in force, the petitioner 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 petitioner 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 in utter disregard to the order of tribunal is illegal.

5.It is open to the respondent Bank to consider the representation submitted by the petitioner 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 petitioner 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 petitioner, that shall be favourably considered. No costs. Consequently, connected miscellaneous petitions are closed.

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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2.The Authorized Officer,
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