



C.R.P.(MD)No.1330 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2022

CORAM

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

C.R.P.(MD)No.1330 of 2022 and
C.M.P.(MD)No.5500 of 2022

K.Pravinth

... Petitioner

Vs.

The Tamilnadu Mercantile Bank Limited,
Nagamalai Pudukottai Branch,
represented by its Chief Manager,
Madurai, Madurai District.

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to revise the order of the Debts Recovery Tribunal made in I.A.No. 405 of 2022 in O.A.No.211 of 2022, on its file passed by the Presiding Officer of Coimbatore in-charge of Madurai, Debts Recovery Tribunal, dated 25.03.2022 forthwith.

For Petitioner :Mr.S.Palani Velayutham

For Respondent :Mr.T.Thevan

ORDER

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

This Civil Revision Petition is filed as against the interim order made in I.A.No.405 of 2022 in O.A.No.211 of 2022 on the file of the Debts Recovery Tribunal, Madurai.



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2.Heard Mr.S.Palani Velayutham, learned Counsel for the petitioner and Mr.T.Thevan, learned Counsel for the respondent.

3.By the impugned order, the petitioner was directed to furnish security to the value of Rs.61,67,719/- to the respondent Bank, failing such deposit, a further direction was issued by the Debts Recovery Tribunal that the property of the petitioner shall be attached.

4.The grievance of the petitioner is that as against the total outstanding of Rs.60 lakhs and odd, the respondent Bank has sold the property of the petitioner and recovered a sum of Rs.40 lakhs and odd, by initiating SARFAESI proceedings. The further grievance of the petitioner is that after realising a substantial amount, the respondent Bank is proceeded against the another property of the petitioner, which is not even mortgaged or secured for the loan.

5.The respondent Bank has filed an application before the Tribunal for attached before judgment and after issuing notice and hearing the petitioner, the Tribunal has passed the impugned order by directing the petitioner to furnish a security to the value of Rs.61,66,719/-.



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6.The grievance of the petitioner is that the outstanding, as on date, is admittedly reduced to Rs.18,04,360.11/- and that the direction of Tribunal to furnish security to the value of Rs.61,66,790.11/- is on the higher side.

7.However, the learned Counsel for the respondent Bank submitted that the Registrar has refused to register the sale deed, which was earlier executed by the Recovery Officer in favour of the auction purchaser. He, therefore, submitted that the Bank is justified in asking the petitioner to furnish security equivalent for the entire liability.

8.This Court is unable to accept the arguments of the learned Counsel for the respondent Bank. It is to be noted that the decision of Registrar refusing to register the document does not mean that the title of the petitioner in respect of the mortgaged property is decided by the Registrar. It is open to the Bank or the auction purchaser to approach the appropriate forum for appropriate relief. There is no document or Civil Court decree is produced to show that the property, which was mortgaged by the petitioner, belonging to a religious institution or temple.

9.It appears that without even holding an enquiry on the basis



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of a communication sent by the religious institution, the Registrar has recorded that the document pertaining to the property, which according to the religious institution belonging to them, cannot be registered. Further, the respondent bank is not prepared to cancel the sale deed, so that the petitioner's property will be available in the hands of the petitioner to mobilize substantial amount.

10.Considering the facts and circumstances of the case, the impugned order passed by the Tribunal is modified by directing the petitioner to furnish security to the value of Rs.19,00,000/-. In all other aspects, the impugned order of the Tribunal, dated 25.03.2022 will stand.

11.With the above, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
05.07.2022

Index : Yes / No

cmr

To

The Presiding Officer of Coimbatore
in-charge of Madurai, Debts Recovery Tribunal.



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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

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