



W.P(MD)No.17624 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2022

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P(MD)No.17624 of 2022
and
WMP(MD)No.12842 of 2022

Mr.P.Renganathan

Partner : M/s.Sri ACL Infosys,

Partner : M/s.Sri ACL Infosys Hotel Le Temps Fort,

Door No.3/2, 3rd Cross,

Lourdhusamy Pillai Colony,

Kajamalai, Trichy-620 023.

... Petitioner

VS.

1. The Authorized Officer,
Canara Bank,
Asset Recovery Management Branch,
Regional Office :
No.1 Royal Road, Cantonment,
Trichy-620 001.

2. Canara Bank,
Rep. by its Branch Manager,
Trichy Puthur Branch,
No.604, Anbagam Buildings,
Puthur Four Road, Trichy-620017.



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3. M/s.Oxina Land Developers Pvt. Ltd.,
Rep by its Managing Director Mr,K.Jeyakarna
No.37, Bishop Road, Tennur,
Trichy-620017.

4. Mr.Siraajdeen Habibulla

5. Mr.Ayub Khan M

6. Mrs.Amutha Palanikumar

7. Mr.Velmurugan Chakrapani

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records of the 1st respondent in the E Auction Sale Notice dated 18.06.2022 quash the same and consequently set aside the auction sale dated 25.07.2022 in respect of the petition schedule item Nos.1 to 3 properties in favour of the respondents 3 to 7 as null and void.

For Petitioner	: Mr.F.Deepak for Mr.B.Vinothkumar
For R1 & R2	: Mr.C.Deepak, Standing Counsel
For R3	: Mr.M.Mahaboob Athiff
For R4 & R5	: Mr.K.S.Kathiravan



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ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

Challenging the E-auction sale notice dated 18.06.2022 and the auction sale dated 25.07.2022 that had taken place pursuant to the sale notice in respect of three items of the properties of the petitioner which were mortgaged with the respondent bank, the present writ petition is filed.

2. At the time of admission, this Court by order dated 05.08.2022, has granted a conditional order of interim stay directing the petitioner to pay a sum of Rs.5 Crores on or before 05.09.2022 and a further sum of Rs.5 Crores on or before 06.10.2022. Subsequently, the petitioner also sought for extension of time to comply with the said conditional order and despite the extension of time granted by this Court, the petitioner has not complied with the conditional order of stay.



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3. Apart from the aforesaid factual details, learned counsel for the petitioner has earnestly made efforts to argue the matter on the merits of the case by submitting that the value of the secured property is higher than the sale price and the petitioner is having sufficient proof to establish that his property is valued more than Rs. 80 Crores, but the auction purchasers purchased the property for a meagre amount of Rs.17,20,10,000/-. Therefore, the learned counsel seeks to quash the sale conducted and prayed to allow the writ petition.

4. Per contra, learned counsel appearing for the respondents 1 and 2/Bank submitted that the writ petition is not maintainable either on law or on facts, as the petitioner has to challenge the sale notice and the auction sale only before the Debts Recovery Tribunal which he failed to do. Further, the petitioner has not complied with the conditional interim order of stay granted by this Court despite the extension of time granted by this Court and therefore, the writ petition is liable to be dismissed.



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5. Learned counsel for the auction purchasers/respondents 3 to 7 reiterated the submissions made by the learned counsel for the Bank and submitted that in the present writ petition, no relief can be granted by this Court.

6. We have heard the learned counsel appearing for the parties and perused the materials available on record.

7. Admittedly, this Court by order dated 05.08.2022, has granted conditional order of interim stay directing the petitioner to pay a sum of Rs.5 Crores on or before 05.09.2022 and a further sum of Rs.5 Crores on or before 06.10.2022. However, the petitioner sought for extension of time to comply with the said conditional order and despite the extension of time granted by this Court on 07.09.2022, the petitioner has not complied with the conditional order of stay. Further, the petitioner cannot invoke the remedy under Article 226 of the Constitution by raising the disputed fact regarding the value of the property without exhausting the remedy before the Debts



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Recovery Tribunal. Moreover, now the sale certificate issued in favour of the auction purchasers and the same has been registered on 03.10.2022 and a third party right has been created over the petitioner's property. Therefore, we are not inclined to consider the prayer sought for by the petitioner.

8. Hence, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K.,J.] & [R.V.,J.]
12.12.2022

Index : Yes / No
Internet : Yes
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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

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ORDER MADE IN
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