



W.P.(MD)No.18178 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2022

CORAM

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

W.P(MD)No.18178 of 2022
and
W.M.P.(MD)No.13259 of 2022

1.M/s.Paark Exports,
Karur District.

2.P.Prakash
3.P.Selvam

... Petitioners

Vs.

1.The Authorised Officer,
City Union Bank Limited,
No.24B, Gandhi Nagar, Kumbakonam-612 001.

2.The Branch Manager,
City Union Bank, Karur Branch.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records pertain to the impugned sale notice, dated 16.07.2022 in C.O./REC/NPA/2022-23 issued by the first respondent and quash the same.

For Petitioners :Mr.I.Velpradeep

For Respondents :Mr.N.Dilip Kumar



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ORDER

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

This Writ Petition is filed challenging the second sale notice, namely, re-tender-cum-auction sale notice, dated 16.07.2022.

2.Heard Mr.I.Velpradeep, learned Counsel for the petitioners, Mr.N.Dilip Kumar, learned Standing Counsel, who takes notice on behalf of respondents. By consent of both parties, the present Writ Petition is taken up for final disposal at admission stage itself.

3.Though the petitioner borrowed a sum of Rs.1.50 crores in 2015, the liability as on date is around Rs.3,11,61,795/-. This figure indicates that the petitioner has committed default from inception and the petitioner's loan account was declared as NPA, even in 2016. Be that as it may, the first sale did not take place for want of bidders.

4.The learned Counsel for the petitioners states that the petitioner is now in a position to mobilise fund by selling some of their properties, which are not mortgaged to make substantial payment. It is the grievance of the petitioner that the property will not fetch the market price in case the respondent bank proceed with auction. It is also



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brought to the notice of this Court that the petitioner's aunt has filed a suit for partition in respect of several properties including the secured assets. The learned Counsel for the respondent bank states that the said suit is a collusive one and he believes that the circumstances would indicate such collusion.

5.Considering the facts and circumstances of the case, this Court is of the view that the petitioner shall be given one more opportunity to save the mortgaged property by making substantial payment. Hence, this Court is inclined to dispose of the Writ Petition with the following directions:

(1)The respondent bank shall defer the sale proceedings as per the impugned sale notice on condition that the petitioners pay a sum of Rs.20,00,000/- on or before 14.09.2022, a further sum of Rs.20,00,000/- on or before 15.10.2022, a further sum of Rs.20,00,000/- on or before 14.11.2022 and a further sum of Rs.20,00,000/- on or before 14.12.2022.

(2)In case the petitioners fail to pay any one of the instalments, in the manner directed above, it is open to the respondent bank to proceed further in accordance with law ignoring this order.

(3)In case the petitioners deposit the amount as directed above, the petitioners are permitted to submit a representation to the



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respondent bank either for waiver of penal interest or One Time Settlement or for restructuring the loan and other concession, as may be permissible under the guidelines of Reserve Bank of India or the norms applicable to the respondent bank and the respondent bank shall pass appropriate orders in accordance with law.

(4)Till an order is passed on the representation of the petitioners and the same is communicated to the petitioners, the respondent bank shall not initiate any coercive action against the properties of the petitioners.

6.With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
11.08.2022

Index : Yes / No

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and

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