BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2022

CORAM

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

W.P(MD)No.18304 of 2022
and
W.M.P(MD)No.13336 of 2022

P.Jayaraman ... Petitioner

Vs.

The Authorized Officer
Union Bank of India
No.6/1, 2nd Cross Street,
Sundar Nagar,
K.K.Nagar
Trichy 621 021 ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the entire records in respect of the impugned E-auction sale notice of the respondent Under Section 13(8) of SARFEASI Act dated 25.07.2022 and to quash the same.

For Petitioner :Mr.S.Alagarsamy
For Respondent :Mr.N.Dilip Kumar
Standing Counsel for Bank

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ORDER

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

Challenging the E-auction sale notice dated 25.07.2022, issued by the respondent Bank, the above writ petition is filed.

2.Heard Mr.S.Alagarsamy, learned counsel appearing for the petitioner and Mr.N.Dilip Kumar, learned Standing Counsel appearing for the respondent.

3.It is an unfortunate the case where the petitioner has come forward with this writ petition, challenging the E-auction sale notice dated 25.07.2022, fixing the sale on 30.08.2022.

4.There is no dispute that the petitioner has availed the loan. However, it is the case of the petitioner that the builder, based on the authorization letter, has got the money from the Bank, without the knowledge of the petitioner. The grievance of the petitioner is that the Bank has permitted the builder to withdraw the entire money even before completing the structural work. It appears that only 30% to 40% of the work is completed. It is alleged that the then Bank Manager had colluded with the builder. The petitioner has filed a complaint before the consumer forum in CC No.20 of 2020 and the same is pending. Similarly, the petitioner has also given a criminal complaint against the respondent Bank and the Contractor about the fraud. Having regard to the peculiar circumstances, this Court is of the view that the petitioner can be shown some indulgence by giving considerable time to enable the petitioner to complete the project.

4.Considering the facts and circumstances of the case and also considering the submissions of the learned counsel appearing on either side, this Court is inclined to dispose of the writ petition in the following lines:-

(i) The respondent Bank shall not proceed with the sale notice dated 25.07.2022 provided the petitioner pays a sum of Rs.2,00,000/-(Rupees Two Lakhs only) on or before

12.09.2022 and a further sum of Rs.1.5 lakhs on or before 12.10.2022 and a further sum of Rs.1.5 lakhs on or before 11.11.2022 directly to the respondent Bank.

(ii) Upon receipt of the said sum of Rs.5,00,000/- (Rupees Five Lakhs only) as stated above, the respondent Bank may restructure the loan, taking into consideration the outstanding as admitted by the petitioner

(iii)When the petitioner makes payments as indicated above, the respondent Bank is directed to consider the representation of the petitioners for One Time Settlement or for restructuring the loan or for wavier of penal interest or for regularization of loan account and for other concessions, as may be permissible as per the norms of RBI applicable to the respondent Bank.

(iv)In case, the petitioner fails to make any one of the installments as indicated above, it is open to the respondent Bank to proceed further in accordance with law. The respondent Bank may consider the application of the petitioner for further loan, if the petitioner shows sufficient security as may be required by the Bank. It is open to the respondent Bank to settle the dispute amicably with the petitioner having regard to the complex situation in which the respondent Bank as well as the petitioner is put to on account of fraud committed by a stranger.

(v)On making such payments, the respondent Bank shall consider and pass appropriate orders on the representation or proposal of the petitioner in accordance with law and communicate the same to the petitioner.

(vi)Till such time, the respondent Bank communicate the order, it shall not initiate any coercive action as against the petitioner. It is also open to the petitioner to defend the recovery proceedings or seek any other remedy as may be available to him under common law.

No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] **[S.S.Y., J.]**
12.08.2022

Index:Yes/No
Internet:Yes

<u>**S.S.SUNDAR, J.**</u>
and
<u>**S.SRIMATHY, J.**</u>

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To

The Authorized Officer
Union Bank of India
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