



W.P.(MD)No.18781 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2022

CORAM:

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

W.P.(MD)No.18781 of 2022
and W.M.P.(MD) No.13696 of 2022

V.Ayyappan

... Petitioner

Vs.

1.The Authorized Officer,
Canara Bank,
Bodinayakanur Branch,
Theni District.

2.The Sub-Registrar,
Bodinayakanur Sub-Registrar Office,
Bodinayakanur,
Theni District.

3.Karthigai Priya

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, forbearing the 2nd respondent to register the document in favour of 3rd respondent in subject matter of R.S.No.159, 160/3 to an extent of 968.50 sq. ft. situated at Door No.10, Kamaluammal Street, Bodinaickkanur, Theni District based on the Sale Certificate issued by the 1st Respondent till the disposal of pending S.A.No.290 of 2022 on the file of DRT, Madurai and to consider the Petitioner's objection dated 09.07.2022.



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For Petitioner : Mr.K.Esakki
For 1st Respondent : Mr.C.Deepak
Standing Counsel
For 2nd Respondent : Mr.K.Selvaganesan
Additional Government Pleader

* * *

ORDER

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

This writ petition is filed for issuance of a Writ of Mandamus, forbearing the 2nd respondent to register the document in favour of 3rd respondent in subject matter of R.S.No.159, 160/3 to an extent of 968.50 sq. ft. situated at Door No.10, Kamaluammal Street, Bodinaickkanur, Theni District based on the Sale Certificate issued by the 1st Respondent till the disposal of pending S.A.No.290 of 2022 on the file of the Debts Recovery Tribunal, Madurai.

2. Heard Mr.K.Esakki, learned counsel for the petitioner, Mr.C.Deepak, learned Standing Counsel, who accepts notice on behalf of the first respondent and Mr.K.Selvaganesan, learned Additional Government Pleader, who accepts notice on behalf of second respondent. By consent of both sides, this Writ Petition is taken up for final disposal at the stage of admission itself.



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3. Brief facts that are necessary for disposal of the

Writ Petition are as follows:-

The petitioner is the borrower, who has availed financial assistance from the first respondent bank. After declaration of the loan account of the petitioner as NPA, proceedings were initiated by the first respondent for sale of secured assets. It is the grievance of the petitioner that as against the total outstanding of Rs.38,60,650.28 as on 28.02.2022 with interest for further period and cost, the secured asset was brought for auction by showing the reserved price as Rs.13,42,000/-. It is also the grievance of the petitioner that the petitioner was not given proper notice and the sale advertisement was published without giving 30 days time. Further there are several irregularities alleged. However, it is admitted that the petitioner has filed SARFAESI Application No.290 of 2022 before the Debts Recovery Tribunal, Madurai. It is also the grievance of the petitioner that the Tribunal had not taken up the matter due to vacancy.

4. The petitioner has challenged the sale proceedings and it is admitted that the same is pending. The petitioner by way of this writ petition seeks an interim order restraining the respondent



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bank from executing the sale deed. Since the sale is challenged before the Debts Recovery Tribunal, Madurai, subsequent sale deed in favour of the auction purchaser will be subject to the outcome of the SARFAESI Application, which is pending. The writ petition cannot be maintained just for the purpose of directing the parties to maintain status quo, when proceedings initiated by the petitioner himself is pending before the Debts Recovery Tribunal.

5. Learned Standing Counsel appearing for the respondent bank submitted that the SARFAESI Applications pending before the Debts Recovery Tribunal, Madurai, are now being taken by the Debts Recovery Tribunal, Coimbatore today and several matters are posted for hearing before the Debts Recovery Tribunal, Coimbatore.

6. However, this Court noticed that the Tribunal at Coimbatore is unable to take up all the matters and it may be appropriate for this Court to entertain writ petition in certain cases, where the rights of the parties are likely to be affected on account of delay in getting interim orders from the Tribunal. However, the situation in the present case is entirely different. The petitioner will



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get all the reliefs once the sale is set aside on any irregularity.

There cannot be any parallel proceedings by this Court, which is purely by way of interim measure to preserve or protect the right of the petitioner.

7. Having regard to the admitted facts and the pendency of the SARFAESI Application before the Debts Recovery Tribunal, Madurai, this Court is of the view that the Writ Petition is not maintainable. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

[S.S.S.R., J.] [S.S.Y., J.]
18.08.2022

Index : Yes / No

sj

To

1.The Sub-Registrar,
Bodinayakkanur Sub-Registrar Office,
Bodinayakkanur,
Theni District.



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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

sj

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