



W.P.(MD)No.20074 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2022

CORAM

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

W.P(MD)No.20074 of 2022
and
W.M.P.(MD)No.14599 of 2022

K.Gurusamy

... Petitioner

Vs.

1.The Authorised Officer,
Canara Bank, Tenkasi District-627 756.

2.The Branch Manager, Canara Bank,
Tenkasi District-627 756.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned e-auction sale notice vide Ref:SN/1115/619/8098, dated 03.08.2022 issued by the first respondent and to quash the same as illegal and void and consequently, to direct the respondents to pass orders on the petitioner's representation, dated 15.06.2022 seeking for one time settlement.

For Petitioner :Mr.F.X.Eugene

For Respondents :Mr.P.Pethurajesh



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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 for issuance of a Writ of Certiorarified Mandamus challenging the impugned e-auction sale notice, dated 03.08.2022 issued by the first respondent and to direct the respondents to pass orders on the petitioner's representation, dated 15.06.2022 seeking for one time settlement.

2.Heard Mr.F.X.Eugene, learned Counsel for the petitioner and Mr.P.Pethurajesh, learned Counsel, who takes notice on behalf of the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The petitioner has challenged the previous sale notice before the Debts Recovery Tribunal, Madurai and obtained an interim order on condition that the petitioner should pay a sum of Rs.14,00,000/-. It is admitted before this Court that the petitioner has paid a sum of Rs.14,00,000/-, even though the payment was not within the time. Be that as it may, the sale did not take place pursuant to the previous sale notice.



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4.The learned Counsel for the petitioner states that the petitioner has already given a representation for One Time Settlement and that the respondents may be directed to consider the said representation for One Time Settlement by treating the earlier payment of the petitioner as one made pursuant to the proposal submitted by the petitioner for one time settlement.

5.This Court is of the view of that the petitioner has shown his *bona fide* to reduce the liability and to discharge the entire loan by negotiation. Considering the facts admitted before this Court, this Court is inclined to dispose of this Writ Petition with the following directions:

(1)The respondents shall defer the sale proceedings for the present provided the petitioner pays a sum of Rs.3,00,000/- in three monthly equal instalments commencing from 29.09.2022.

(2)In case the petitioner fails 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 the event of making payments, as directed by this Court, it is open to the petitioner to submit a fresh representation with the proposal for one time settlement or may apply for any other concession, viz., waiver of penal interest or for regularisation of loan account, etc., as



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permissible in the light of the guidelines of Reserve Bank of India or the norms applicable to the respondent Bank.

(4)When such representation is submitted by the petitioner, the same shall be considered by the respondent bank by treating the payment of Rs.14,00,000/- as well as the sum of Rs.3,00,000/-, as directed above, along with the settlement proposal that may be submitted by the petitioner.

(5)Till a final order is passed on the representation of the petitioner and the same is communicated to the petitioner, the respondent shall not initiate any coercive action against the petitioner.

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.]
29.08.2022

Index : Yes / No

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and

S.SRIMATHY, J.

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