



W.P.(MD)No.20180 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.20180 of 2022
and
W.M.P.(MD)No.14677 of 2022

Kavitha

... Petitioner

Vs.

1.The Authorized Officer Cum Chief Manager,
Canara Bank,
Teppakulam Main Branch,
Trichy-620 002.

2.The Branch Manager,
Canara Bank,
No.238, Kulumani Road,
Andanallur, Trichy-639101.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records of the impugned sale notice dated 03.08.2022 issued by the 1st respondent and quash the same as illegal.

For Petitioner : Mr.S.Muthumalai Raja

For Respondents : Mr.C.Deepak



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ORDER

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

Challenging the sale notice for sale of immovable assets, which were offered by the petitioner before the respondent bank for loan, the present Writ Petition has been filed.

2.Heard Mr.S.Muthumalai Raja, learned counsel for the petitioner and Mr.C.Deepak, learned counsel, who takes notice on behalf of respondents. By consent of both parties, the present Writ Petition is taken up for final disposal at the stage of admission itself.

3.The learned counsel for the petitioner states that the petitioner availed a loan by mortgaging the property and she was unable to make payment due to Covid-19 lock down. Since she had huge financial loss during that time, she was driven to the stage, where she could not mobilize funds. The liability, as on date, as submitted by the learned counsel for the respondent bank, is around Rs.53.82 lakhs.

4.The learned counsel for the petitioner points out several adverse condition, problem and the reasons for financial constraints to justify the non-payment of loan amount as per the repayment schedule.



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Even though the petitioner had admitted her inabilities, the petitioner is now prepared to make 25% of the liability without affecting the security.

5.However, the learned counsel for the respondent Bank states that this is the fifth sale notice and the petitioner is unable to make any payment so far. He also pointed out that the upset price for the property is just 25% of the amount due and the date of auction is fixed on 07.09.2022.

6.In the said circumstances, the fact reported by the respondent bank prompts this Court to infer that it will be also in the interest of respondent to consider the representation of the petitioner for deferring sale on payment of 25% of the amount outstanding.

7.In the above circumstances, this Court is inclined to dispose of the Writ Petition in the following lines:-

(1)The respondent bank shall defer the sale proceedings as per the impugned sale notice on condition that the petitioner has to pay a sum of Rs.3,50,000/- on or before 29.09.2022, a further sum of Rs.3,50,000/- on or before 30.10.2022, a further sum of Rs.3,50,000/- on or before 30.11.2022 and a further sum of Rs.3,00,000/- on or before 30.12.2022.



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(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 case the petitioner deposits the amount as directed above, the petitioner is permitted to submit a representation to the 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 petitioner and the same is communicated to the petitioner, the respondent bank shall not initiate any coercive action against the petitioner.

8.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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