



W.P.(MD)No.20223 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2022

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

W.P.(MD)No.20223 of 2022
and
W.M.P.(MD)No.14701 of 2022

K.C.Arunkumar

... Petitioner

-Vs-

The Authorized Officer,
Canara Bank,
Tallakulam Branch, Madurai.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned sale notice sated 27.07.2022 issued by the respondent and to quash the same; consequently, direct the respondent not to proceed with the sale of the property as mentioned in the sale notice.

For Petitioner : Mr.R.Rajamohan
For Respondent : Mr.R.Pandivel,
Standing Counsel.



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ORDER

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

Challenging the E-auction cum sale notice for sale of immovable assets under SARFAESI Act, 2002 r/w proviso to Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, the present Writ Petition is filed and a direction is also sought for not to proceed with the sale of the property as mentioned in the sale notice.

2.Heard Mr.R.Rajamohan, learned counsel for the petitioner and Mr.R.Pandivel, learned Standing Counsel, who takes notice on behalf of respondent. 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, though, has expressed the inability of the petitioner to make substantial payment before sale, states that the petitioner is now prepared to pay the sum equal to 25% of the amount due as on date.

4.It is the contention of the learned Standing Counsel for the respondent bank that the total liability as on date is around Rs.2.29 crores.



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5. Though the petitioner has raised some grounds, pointing out some irregularities and the learned Standing Counsel for the respondent bank has opposed this Writ Petition on maintainability on various other grounds, this Court is not inclined to go into such details having regard to the nature of the order that is proposed to be passed in this writ petition.

6. Accordingly, this Writ Petition is disposed of on the following lines:-

(1) The respondent bank shall defer the proceedings as per the order impugned herein for the present provided that the petitioner pays a sum of Rs.56,00,000/- (Rupees Fifty Six Lakhs Only) in four equal monthly instalments. The petitioner shall pay a sum of Rs.14,00,000/- at the end of every English calendar month, commencing from 30.09.2022. The last payment due is on 30.12.2022.

(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.



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(3) In case the petitioner deposits the amount as directed above, the petitioner is permitted to submit a fresh representation, within a period of two weeks from the date of such payment so made 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.

(4)The respondent Bank shall consider the representation of the petitioner and dispose of the representation by a reasoned order and communicate the same to the petitioner. Till such time, the respondent bank is restrained from taking any coercive action against the petitioner.

No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
29.08.2022

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