



W.P(MD)No.21046 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2022

CORAM

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

W.P(MD)No.21046 of 2022

and

W.M.P(MD).Nos.15278 and 15282 of 2022

V.Palanisamy

... Petitioner

Vs.

1.The Authorised Officer,
Canara Bank,
Home Loan,
Tuticorin Beach Road Branch,
H.O.No.40, 55 PB, Beach Road,
Thoothukudi.

2.The Branch Manager,
Canara Bank,
(Erstwhile Syndicate Bank),
Through its Authorized Officer,
Tuticorin Beach Road Branch,
H.O.No.40, 55 PB, Beach Road,
Thoothukudi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order dated 08.09.2021 in



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Ref.SN/SARFESI/HL-721-373/1B/2021-2022 passed by the first respondent and quash the same as illegal.

For Petitioner : Mr.P.Manikandan
For Respondents : Mr.R.Pandivel
Standing Counsel for Bank

ORDER

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

This Writ Petition has been filed challenging the impugned sale notice, dated 08.09.2021.

2. Though the writ petition itself is liable to be dismissed on the ground of delay, it is noticed that the sale was confirmed in favour of third party, by name, Antony Pitchai Benitto on 20.10.2021. The respondent has filed an application before the Chief Judicial Magistrate under Section 14 of the SARFAESI Act. When the sale was taken place and the third party purchaser has obtained the sale certificate, it is not open to the petitioner to pursue the remedy before this Court, in view of the effective alternate remedy which is available to the petitioner to challenge the sale on the ground of irregularities. Further, the petitioner has not impleaded the purchaser as party on the ground that he is not



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aware of the details of the purchaser. The respondent Bank has not handed over the particulars of the purchaser. Now, the learned counsel appearing for the petitioner has acknowledged the receipt of the particulars of the purchaser from the learned Standing Counsel appearing for the respondent Bank. Hence, the petitioner cannot seek redemption of the property without impleading the auction purchaser. Therefore, the petitioner has to challenge the sale before the Debt Recovery Tribunal and it is not open to the respondent Bank to negotiate for one time settlement with the mortgagor.

3. Accordingly, this Writ Petition is dismissed with liberty to the petitioner to approach the Debt Recovery Tribunal to challenge the sale. The Tribunal may dispose of the same without being influenced by any of the observations made by this Court in this writ petition. No costs. Connected miscellaneous petitions are closed.

[S.S.S.R., J.] [S.S.Y., J.]
02.09.2022

Index : Yes/No
Internet : Yes
ssb



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To

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S.S.SUNDAR, J.
AND
S.SRIMATHY, J.

ssb

ORDER MADE IN
W.P(MD)No.21046 of 2022
and
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