



W.P(MD)No.21877 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

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Malarselvi

... Petitioner

VS.

1. The Authorized Officer,
Allahabad Bank,
Now Indian Bank,
No:112, Sir Thiyagaraya Road,
"Vairams" II Floor,
T.Nagar,
Chennai-600 017.

2. The Branch Manager,
Allahabad Bank,
Now Indian Bank,
Sivakasi,
Virudhunagar District.

3. The Zonal Officer,
Indian Bank,
34/3, Church 1st Street,
JRC 4D, Scan Complex,
1st Floor,
Karaikudi,
Sivagangai District.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, by directing the 2nd respondent herein to refund the amount of Rs.20,80,000/- (Rupees Twenty Lakhs and Eighty Thousand only) with interest at the rate of 18% per annum to the petitioner herein which was paid by her to the 2nd respondent bank in pursuant to the auction sale dated 13.09.2019, within a stipulated period to be fixed by this Hon'ble Court.

For Petitioner : Mr.M.Thirunavukkarasu
For Respondents : Mr.R.Pandivel

ORDER

(Order of the Court was made by R.MAHADEVAN, J.)

The petitioner has sought for a Mandamus, directing the second respondent herein to refund the amount of Rs.20,80,000/- with 18% interest per annum, which was paid by her to the second respondent bank pursuant to the auction sale conducted on 13.09.2019, within a time frame.

2. The learned counsel for the petitioner submitted that the petitioner was declared as a highest bidder in the auction sale conducted on 13.09.2019 for a sum of Rs.20,80,000/- in respect of the secured property situated at Door No.126/1, Plot No.13, Athikulam Sengulam Village,



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Srivilliputtur Taluk, Virudhunagar District. She paid 25% of the bid amount on 13.09.2019 and the balance 75% of the bid amount on 30.09.2019. Even though she paid the entire bid amount, sale certificate was not issued nor possession was handed over to her. Hence, she made several representations and e-mails seeking refund of the sale amount of Rs. 20,80,000/- with interest or to execute the sale deed and hand over the possession of the property, but there was no response by the respondents. Therefore, in this regard, the petitioner made a representation dated 17.11.2021 to the District Collector, Virudhunagar District, who had simply forwarded the same to the second respondent by proceedings dated 29.11.2021. According to the learned counsel, for paying the bid amount of Rs.20,80,000/-, the petitioner obtained loan from the third parties. Now she is suffering from cancer disease and taking treatment and towards medicines alone, she is spending Rs.50,000/- per month. Since the petitioner simultaneously could not pay the interest for the loan obtained from the third parties nor could bear the medical expenses, she has filed this writ petition seeking refund of the entire bid amount with interest citing her disease. When the respondents Bank could not hand over the possession of the secured property to the petitioner or to execute sale deed in her favour for more than 2½ years, they ought to have refunded



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the sale amount deposited by her with interest. Thus, the learned counsel would pray for allowing this writ petition.

3. Heard the learned counsel for the petitioner and Mr.R.Pandivel, learned counsel who takes notice for the respondents.

4. Admittedly, the petitioner is the auction purchaser in respect of the abovesaid secured property in the auction sale conducted on 13.09.2019, for a sum of Rs.20,80,000/-. Despite payment of the entire bid amount on 30.09.2019 itself, the petitioner has been made to run from pillar to post for issuance of sale certificate and for getting possession and the several representations in this regard ended in vein. Till date, the petitioner is neither given possession of the property nor sale certificate. Since the petitioner is now suffering from cancer disease, she requested for refund of the bid amount, but despite citing her health problem, nothing was moving. Hence, she has approached this Court.

5. The learned counsel for the respondents has produced the typedset of papers claiming that when the Bank repeatedly requested the revenue authorities to make arrangements and police protection for taking



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physical possession of the secured property, under one pretext or other, the authorities did not make arrangements to get possession of the property. Though the respondent Bank approached the revenue authorities and police authorities from 10.10.2019 till 07.09.2022, the authorities did not execute the order of the District Collector enabling the Bank to get physical possession of the secured property, citing either Covid-19 pandemic and Urban Local Bodies' Election etc. Ultimately, the Tahsildar advised the Bank to once again approach the District Collector and obtain a new eviction order. In view of the delay in getting possession of the secured property from 30.09.2019 till date, the petitioner could not either enjoy the property or get refund of the bid amount. Now, citing her health problems, the petitioner is seeking for refund of the entire bid amount with interest.

6. In view of the above, we are of the view that the petitioner is entitled for refund of the entire sale amount of Rs.20,80,000/- paid by her on 30.09.2019 with interest. Accordingly, we direct the respondents Bank to refund a sum of Rs.20,80,000/- to the petitioner along with 8% interest per annum from 30.09.2019 till the date of payment i.e., on or before 14.10.2022.



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7. With the above direction, the Writ Petition is disposed of. No costs.

Index : Yes / No
Internet : Yes

[R.M.D.,J.] & [J.S.N.P.,J.]
29.09.2022



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R.MAHADEVAN,J.
and
J.SATHYA NARAYANA PRASAD,J.

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ORDER MADE IN
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DATED : 29.09.2022