BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.01.2022**

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P(MD)No.1867 of 2021
and
C.M.P(MD)Nos.10030 & 10031 of 2021

The Authorized Officer,
State Bank of India,
SARB, No.8, Dr.Ambedkar Road,
Vinayagar Nagar Branch,
Madurai-625 020. ... Petitioner/Respondent/Defendant

Vs.

T.Mabel ... Respondent/Petitioner/Applicant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to allow this Civil Revision Petition and set aside the order of interim stay granted by the learned Debts Recovery Tribunal, Madurai, dated 21.09.2021 in I.A.No.1437 of 2021 in S.A.No.390 of 2021.

For Appellant : Mr.N.Dilip Kumar

For Respondent : Mr.P.Venkatesan

JUDGMENT

[Order of the Court was made by DR.G.JAYACHANDRAN,J.]

Aggrieved by the interim order passed by the Debts Recovery Tribunal, Madurai in I.A.No.1437 of 2021 in S.A.No.390 of 2021 restraining the petitioner/Bank to confirm the sale till 22.11.2021, the Bank has approached this Court by way of Civil Revision Petition.

2. From the pleadings, this Court finds that the son of the respondent/petitioner herein has borrowed a housing loan in the year 2014 and a sum of Rs.31,89,559/- fall due as on 30.11.2019.

Therefore, the loan was declared as Non Performing Asset in the year 2019. Thereafter, the Bank has proceeded for recovery. The first auction sale could not be completed and the second auction sale which was scheduled on 22.09.2021 completed and the auction purchaser has also deposited the entire sale consideration. While the fact being so, the Tribunal has entertained the SARFAESI Appeal No.390 of 2021 and an interim order has been passed directing the respondent herein to pay a sum of Rs.7,11,000/- each in two installments. First installment on or before 21.10.2021 and second installment on or before 21.11.2021 till then sale should not be confirmed.

3. The said conditional order grating stay of confirmation of sale is challenged in this petition by the Bank. The learned counsel appearing for the petitioner/Bank submitted that there cannot be a conditional order of part payment of the loan amount and therefore, the impugned order of the Debts Recovery Tribunal, dated 21.09.2021 is bad in law.

4.The learned counsel appearing for the respondent submitted that the respondent is a Cancer Patient and she is not in a position to mobilize the money to clear entire dues. However, as per the conditional order passed by the Debts Recovery Tribunal, the respondent has paid a sum of Rs.14,22,000/- in two installments and if some more time is granted, she will be able to mobilize the balance due amount and clear the debt.

5.Taking note of the fact that the loan account of the respondent has been declared as NPA in 2019 and soon thereafter, COVID-19 Pandemic has broken down, the respondent herein to show her bonafide has deposited Rs.14,22,000/- as against the due of about Rs.35,00,000/-. Hence, the confirmation of sale stayed by the Tribunal stand extended by another period of 45 days from today and this Civil Revision Petition is disposed of on condition that if the petitioner clears the entire due along with other incidental costs within 45 days from today, the sale shall stand set aside, otherwise the bank shall confirmation of sale and proceed in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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To

The Debts Recovery Tribunal,
Madurai.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-2262[F] dated 24/01/2022)

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24.01.2022

RD/CK(03.02.2022) 3P 3C