



W.P.(MD) No.24172 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.24172 of 2022
and W.M.P.(MD)No.18289 of 2022

P.M.Ramasubramanian

Vs.

... Petitioner

1.The Authorised Officer,
State Bank of India,
Stressed Assets Recovery Branch,
Vinayaga Nagar Branch, First Floor,
No.8, Dr.Ambedkar Road,
Madurai.

2.State Bank of India,
Through it's Chief Manager,
Commercial Branch,
Rajapalayam,
Virudhunagar District.



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3.M/s.Metro Coat Rajapalayam Private Ltd.,
143-E1, PACR Salai,
Near Andalpuram Bus Stop,
K.R.Nagar Post, Rajapalayam,
Presently at:
5674, 5th Street, Gokul Nagar,
Thatchanallur,
Tirunelveli – 627 358.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the sale notice issued by the 1st Respondent dated 23.09.2022, quash the same and consequently direct the 1st respondent to assign the loan documents/mortgage documents or by outright sale of the schedule properties mentioned in the impugned notice issued by the 1st respondent dated 23.09.2022, in favour of the petitioner after collecting the balance amount of Rs.79,11,782/-.

For Petitioner : Mr.A.Sivaji

For Respondents : Mr.N.Dilip Kumar,
Standing Counsel for R1 & R2

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Challenging the sale notice issued by the 1st respondent bank dated 23.09.2022 and for a consequential direction to the 1st respondent, to assign the



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loan documents / mortgage documents or by outright sale of the schedule properties mentioned in the impugned notice issued by the 1st respondent dated 23.09.2022, in favour of the petitioner after collecting the balance amount of Rs. 79,11,782/-, the petitioner has filed this Writ Petition.

2. It is the case of the petitioner that he stood as guarantor for the loan availed by the third respondent, who has borrowed money from the respondents bank for a sum of Rs.3,75,00,000/-. Since the third respondent defaulted in payment of the loan, his account was declared as NPA and the the respondents bank brought the property of the petitioner, who is the guarantor of the aforesaid loan amount, for sale. The said auction sale did not materialize for want of bidders. Thereafter, the third respondent approached the respondents bank for compromise settlement and offered Rs.1,86,00,000/- to settle the entire loan account. The said offer was accepted by the respondent Bank, vide letter dated 20.06.2022, on condition that the third respondent should pay the 1st installment sum of Rs.30 lakhs on or before 22.06.2022 and the balance sum of Rs. 1,46,00,000/- to be paid on or before 19.09.2022. The third respondent and their



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investor sought extension of time till 30.06.2022, to pay the 1st installment sum of Rs.30,00,000/-. Since the third respondent did not paid the 1st installment, the compromise was cancelled by the respondents bank, which has been also duly intimated by the respondent bank, vide letter dated 01.07.2022. The respondents Bank issued the 2nd auction sale notice dated 04.07.2022, scheduling the auction to be held on 28.07.2022. The said auction sale did not materialize, for want of bidders. Thereafter, the petitioner's property was auctioned for a sum of Rs. 1,65,00,000/-. On payment of entire sale consideration by the auction purchaser, sale certificate was issued in favour of the auction purchaser on 26.08.2022 and the same has also been registered in favour of the auction purchaser and possession has also been handed over to the auction purchaser. Thereafter, the respondents bank issued the impugned sale notice dated 23.09.2022. As against the said sale notice, the petitioner has filed this Writ Petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner is ready to settled the entire dues to the respondents bank and without considering the same, the 1st respondent issued the impugned sale notice dated



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23.09.2022. He further submitted that the petitioner has complied the interim order conditional order passed by this Court dated 03.11.2022 and hence, prays for allowing of this Writ Petition.

4. The learned Standing Counsel appearing for the respondents 1 and 2 has filed a counter affidavit, by narrating the aforesaid fact and submitted that without challenging the earlier auction sale notice, in which the property of the petitioner was brought for sale, the petitioner has filed the present writ petition challenging the sale notice, in which the property of the third respondent has been brought for sale. He further submitted that as against the present impugned sale notice, the third respondent has filed an application before the Debts Recovery Tribunal, Madurai in S.A.No.358 of 2022 and the petitioner has no locus to challenged the present impugned sale notice dated 23.09.2022 and hence, he prays for dismissal of this Writ Petition.

5. On a perusal of the records, it is seen that the petitioner did not take any steps to challenge the auction sale notice, pertaining to his property and he has



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now challenged the present impugned sale notice, which relates to the third respondent's property. Further, challenging the impugned sale notice dated 23.09.2022, the third respondent has filed an application in S.A.No.358 of 2022, before the Debts Recovery Tribunal, Madurai and therefore, the petitioner cannot have any legal right to challenge the said impugned notice, which relates the third respondent's property. Therefore, there is no merit in this Writ Petition and the same is liable to be dismissed.

6. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]

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vsm



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