



W.P.(MD) No.24275 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2022

CORAM:

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

**W.P.(MD) No.24275 of 2022
and
W.M.P.(MD) No.18385 of 2022**

M/s.Sun Fireworks Factory
Rep.by its Authorized Partner
A.Neerathilingam

... Petitioner

-vs-

- 1.The Authorized Officer
Canara Bank
ARM Branch
First Floor, Circle Office
St.Marys Campus
East Veli Street
Madurai-625 001
- 2.Canara Bank
rep.by its Branch Manager
Sivakasi Branch
No.2, Chairman Shanmuga Nadar Road
Sivakasi-626 123
- 3.E.Kombiah
- 4.Mayakkan

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records pertaining to the initiation of proceedings under the Securitization and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002 ending up with e auction sale notice dated 09.12.2020 and the subsequent sale held on 29.12.2020 in favour of the third respondent by the first respondent in respect of the schedule properties as enclosed herewith in a separate sheet and subsequently, quash the same as devoid of merits and illegal forthwith.

For Petitioner : Mr.Sankarapandian, J.

For Respondents : Mr.R.Pandivel
Standing Counsel for R1 & R2

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

Mr.R.Pandivel, learned Standing Counsel, takes notice for the respondents 1 and 2.

2. Since the writ petition is disposed of at the admission stage itself and in view of the nature of the order proposed to be passed, notice to the respondents 3 and 4 is dispensed with.



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3. With the consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. Challenge in this writ petition is to the e-auction sale notice dated 09.12.2020, issued by the respondent – Bank and the subsequent sale effected in favour of the third respondent on 29.12.2020.

5. The learned counsel for the petitioner submitted that the entire sale proceedings are vitiated by fraud and collusion and therefore, the same are not legally sustainable in law. Further, the secured asset has been sold to the third respondent / auction purchaser only for a meagre amount and several malpractices have been taken place in the impugned sale proceedings. Challenging the same, the petitioner has also filed S.A.No.277 of 2021, before the Debts Recovery Tribunal and the same is pending consideration. In support of his contentions, the learned counsel placed reliance upon a decision of the Andhra Pradesh High Court in ***M/s.Venshiv Pharma Chem (P) Ltd., and another vs. State Bank of India [CDJ 2018 APHC 207]***.

6. By way of reply, the learned Standing Counsel appearing for the respondent – Bank submitted that after purchase of the secured asset on



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29.12.2020, the third respondent / auction purchaser sold the same to the fourth respondent and in view of that subsequent development, the relief sought for does not survive as on date and therefore, he prayed for dismissal of the writ petition.

7. At this juncture, the learned counsel for the petitioner submitted that the petitioner may be granted liberty to work out their remedy before the Debts Recovery Tribunal in the pending S.A.No.277 of 2021.

8. Thus, granting such liberty, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

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Index : Yes / No

Internet : Yes / No

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This matter is listed today under the caption “For being mentioned” at the instance of the learned counsel for the petitioner.

2. The learned counsel appearing for the petitioner submitted that while disposing of the Writ Petition, by order dated 20.10.2022, this Court had directed the Debts Recovery Tribunal, Madurai, to dispose of the S.A.No.277 of 2021, but that has not been incorporated in the order copy and hence, he prays for necessary orders.



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3. In view of the above submissions, paragraph 8 of the order is substituted as follows:

“Thus, we dispose of the Writ Petition with a direction to the Presiding Officer, Debts Recovery Tribunal, Madurai, to dispose of the S.A.No.277 of 2021, within a period of twelve (12) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.”

4. Registry is directed to carryout the aforesaid correction and issue corrected copy of the order to the respective parties. In all other aspects, the order dated 20.10.2022 shall remain unaltered.

[R.M.D., J.] [J.S.N.P., J.] vsm

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