



W.P.(MD) No.24965 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2022

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE R.MAHADEVAN**

**W.P.(MD) No.24965 of 2022
and
W.M.P.(MD)Nos.19074 and 19078 of 2022**

S.Kumarasamy

... Petitioner

-VS-

The Authorized Officer,
The Tamil Nadu Mercantile Bank,
No.14-1-14, Asara Complex,
(Tirunelveli Regional Office, Tirunelveli),
Sankarankovil Main Road,
Surandai-627 859,
Tenkasi District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned sale Auction notice passed by the respondent dated 11.10.2022, schedule to conduct auction on 03.11.2022 at 3.30 p.m. and quash the same as illegal and consequently directing the respondent to consider the petitioner's OTS proposal made via representation dated 18.10.2022, within the time stipulated by this Hon'ble Court.



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For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondent : Mr.T.Thevan, Standing Counsel

ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

This writ petition has been filed challenging the auction sale notice dated 11.10.2022, issued by the respondent – Bank fixing the sale on 03.11.2022 at 3.30 p.m., and consequently, for a direction to the respondent, to consider the petitioner's OTS proposal made via representation dated 18.10.2022, within a time frame.

2. Heard Mr.P.M.Vishnuvarthanan, learned counsel for the petitioner and Mr.T.Thevan, learned Standing Counsel, who accepts notice on behalf of the respondent. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.



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3. Learned counsel for the petitioner submitted that the petitioner's account came to be declared as NPA during December, 2019 for not clearing the outstanding amount of Rs.58,09,770.65/- and in order to show his *bonafides*, the petitioner has sold away the machineries and other surplus land and paid a sum of Rs.53,34,779/-, leaving only a sum of Rs.18,23,286.68/- as on 30.09.2022, for which, the present auction sale notice has been issued.

4. In reply, the learned counsel for the respondent – Bank submitted that the petitioner has been visiting this Court whenever sale notice has been issued and till date, he has filed nine writ petitions, including the present writ petition. He would further submit that the petitioner has also filed a similar writ petition in W.P(MD) No.22069 of 2022, challenging the sale notice dated 29.08.2022 and obtained a conditional order and failed to comply with the same.

5. We find merit in the submission made by the learned Standing Counsel appearing for the respondent – Bank. This Court while entertaining a similar writ petition in W.P(MD) No.22069 of 2022, based on the undertaking given by the petitioner, directed him to pay a sum of Rs.5 lakhs on or before 10.10.2022,



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however, the petitioner has not complied with the said order till date. Therefore, we are not inclined to entertain this writ petition.

6. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[T.R., A.C.J.] [R.M.D., J.]
03.11.2022

Index : Yes / No
Internet : Yes / No
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THE HON'BLE THE ACTING CHIEF JUSTICE
and
R.MAHADEVAN, J.

sj/pkn

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and
W.M.P.(MD)Nos.219047 and 19078 of 2022

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