



W.P.(MD) No.26157 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.26157 of 2022

and

W.M.P.(MD)No.20324 of 2022

V.Karuppasamy

... Petitioner

-Vs-

1.The Authorized Officer,
Tamil Nadu Mercantile Bank,
Regional Office, Madurai.
(For Chinnalapatti Branch).

2.The Branch Manager,
Tamil Nadu Mercantile Bank,
Chinnalapatti Branch, Dindigul.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned Auction Sale Notice dated 08.11.2022 issued by the 1st respondent and quash the same as illegal.

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For Petitioner : Mr.S.Sukumar
For Respondents : Mr.N.Dilipkumar
Standing Counsel

ORDER

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

The auction sale notice dated 08.11.2022 issued by the 1st respondent, fixing the date of auction on 12.12.2022, is under challenge in this Writ Petition.

2.According to the petitioner, he borrowed loan from the respondent Bank and he has been regularly paying interest to the same. However, due to Covid-19, Pandemic situation, he was unable to pay the interest to the respondent Bank. Hence, his loan account was declared as Non-Performing Assets and thereafter, demand notice dated 07.06.2022 was issued, followed by possession notice dated 08.09.2022. Challenging the said possession notice, the petitioner has filed W.P.(MD)No.22902 of 2022 before this Court, wherein this Court, by an order dated 29.09.2022, passed a conditional order, which is extracted hereunder:-

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“15.Recording the above submissions, the Writ Petition is disposed of directing the petitioner to pay Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand Only) on or before 29.10.2022 and the entire remaining outstanding in four consecutive equal monthly instalments. The first instalment shall be paid on or before 29.11.2022 and the subsequent three installments shall be paid on or before 29th day of every English Calendar month. If the petitioner fails to comply with the above said order, the respondent Bank may proceed further in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.”

3.Since the aforesaid conditional order dated 29.09.2022 has not been complied with by the petitioner, the respondent Bank issued the auction sale notice dated 08.11.2022, which is impugned in this Writ Petition.

4.Today, when the matter was taken up for hearing, the learned counsel for the petitioner submitted that the petitioner, to show his *bona fide*, is ready to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) on or before 12.12.2022, especially, before the auction time and the remaining outstanding amount on or before 31.03.2023, for which, the learned Standing Counsel for the respondent

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Bank is agreeable, however, with liberty to the respondent Bank to proceed against the petitioner, in case of default in any of the aforesaid payments.

5.In view of the above, this Writ Petition stands disposed of, directing the petitioner to pay a sum of Rs.2,00,000/- on or before 12.12.2022 and the remaining outstanding amount on or before 31.03.2023. Till such time, the respondent Bank shall not take any coercive action against the petitioner. In case the petitioner fails to make any one of the aforesaid payments, it is open to the respondent Bank to proceed further in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

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

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Index : Yes / No

Internet : Yes / No

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Myr

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