



W.P.No.4235 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.4235 of 2023

Bakkiyalakshmi

.. Petitioner

Vs

The Chief Manager cum Authorized Officer,
Bank of India,
Recovery Department,
Coimbatore Zonal Office,
324, Oppanakara Street,
Coimbatore-641 001.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records relating to the sale notice issued by the respondent in Ref.mo.ZO/CBE/RD/SARFAESI/2022-23/X/02 dated 20.12.2022 pertaining to the property situated at SF No.94/1, Pomalur Village, Palladam Sub Registration District, Tiruppur District to an extent of 0.79 acres and quash the same.



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For the Petitioner

: Mr.K.M.Vijayan
Senior Counsel
for M/s.K.M.Vijayan Associates

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

Bakkiyalakshmi, wife of Ponnusamy, a resident of Kanakkankadu, Velampalayam, Mangalam, Palladam Taluk, Tiruppur District, has filed this writ petition challenging the sale notice dated 20.12.2022 issued by the respondent bank.

2. Mr.K.M.Vijayan, learned senior counsel appearing for the petitioner, submitted that when the market value of the property is higher than one mentioned in the sale notice, the petitioner is entitled to question the same by filing a writ petition before this Court to redress her grievance. Secondly, there is also a civil court decree in favour of the petitioner in respect of the property in question. Thirdly, the petitioner would not be in a position to comply with the conditional order dated 19.1.2023 passed by the Debts Recovery Tribunal in S.A.No.21 of 2023.



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3. On a perusal of the records, we find that challenging the sale notice dated 20.12.2022, the petitioner has preferred S.A.No.21 of 2023 before the Debts Recovery Tribunal, Coimbatore and, by the order dated 19.1.2023, while entertaining S.A.No.21 of 2023, the Tribunal directed the petitioner to deposit a sum of Rs.83.00 lakh to the respondent bank, out of which a sum of Rs.41.50 lakh is to be paid on or before 16.2.2023 and another sum of Rs.41.50 lakh is to be paid on or before 16.3.2023.

4. We are of the view that, if really the petitioner is aggrieved over the undervaluation of the property mentioned in the sale notice and she is not in a position to comply with the conditional order passed in S.A.No.21 of 2023, she can very well file an appeal before the Debt Recovery Appellate Tribunal against the order dated 19.1.2023 passed in S.A.No.21 of 2023 and not invoke the jurisdiction of this Court under Article 226 of the Constitution of India.



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Finding no merit in the writ petition, the same is dismissed.

However, liberty is granted to the petitioner to work out her remedy before the Debt Recovery Appellate Tribunal in the manner known to law. There will be no order as to costs. Consequently, W.M.P.No.4275 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
13.02.2023

Index : No
Neutral Citation : No
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To:

The Chief Manager cum Authorized Officer,
Bank of India,
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T.RAJA, ACJ.
AND
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