



W.P.No.12502 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.05.2023

CORAM

THE HONOURABLE **MR.JUSTICE A.D.JAGADISH CHANDIRA**

and

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

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1. R.Vani

2. J.Rajendran

.. Petitioners

Vs

1. M/s.Punjab National Bank,

Rep. by its Authorized Officer

S.Srinivasan,

Having its office at:

Circle Sastra Centre,

Chennai North, Spencer Plaza – Ground Floor,

No.769, Anna Salai, Chennai – 600 002.

2. M.A.Moorthy

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to Sale Certificate, dated 30.03.2023 issued by the 1st respondent and quash the same and consequently direct the 1st respondent to refrain from taking any action in respect of petitioner's property till the disposal of S.A.No.10 of 2023 pending before DRT III Chennai.



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For Petitioners : Mr.C.Iyyapparaj

For Respondents : Mr.M.L.Ganesh (for R1)

ORDER

(Delivered by **C.SARAVANAN,J.**)

The petitioner has challenged the sale certificate, dated 30.03.2023 issued by the first respondent Bank in favour of the 2nd respondent and for a consequential direction to the 1st respondent to refrain from taking any action in respect of petitioner's property till the disposal of S.A.No.10 of 2023 pending before the Debt Recovery Tribunal, DRT III, Chennai.

2. The case of the petitioner is that the petitioner has availed a loan of Rs.2,67,97,000/- from the 1st respondent Bank on 14.09.2018 by mortgaging his property. Due to default in re-payment for some period, the respondent has initiated SARFAESI proceedings in the capacity of Authorised officer as well as Chief Manager of the Branch before the Special Judge / Chief Judicial Magistrate, Kancheepuram District at Chengalpattu. On considering the same, the learned Chief Judicial Magistrate had passed an order on 22.09.2022. Challenging the said order, the petitioner has preferred SA



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No.10 of 2023 before the Debt Recovery Tribunal III, Coimbatore. During the pendency of the same, the 1st respondent issued a sale certificate on 30.03.2023, intimating the sale of the property in favour of the 2nd respondent. Hence, this Writ Petition.

3. Heard the learned counsel for the petitioner and the learned counsel appearing for the 1st respondent Bank.

4. On perusal of the records, it is seen that the respondent bank has filed a petition against the petitioner before the the learned Special Judge / Chief Judicial Magistrate, Kancheepuram District at Chengalpattu for taking possession of secured assets under Section 14 (1) (2) of the SARFAESI Act, 2002 and the same was allowed on 22.09.2022. The said order was challenged by the petitioner before the Debt Recovery Tribunal III, Chennai in S.A.No.10 of 2023.

5. Challenging the Sale Certificate dated 30.03.2023 made in favour of the 2nd respondent, the petitioner has preferred this Writ Petition.



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6. There are no merits in the present Writ Petition as the Sale has taken place on 19.12.2022 in favour of the 2nd respondent. The Sale Certificate has been issued to the 2nd respondent is dated 30.03.2023. The impugned Sale Certificate dated 30.03.2023 is pursuant to the sale made in favour of the 2nd respondent on 19.12.2022.

7. The petitioner has an alternate remedy before the Debt Recovery Tribunal to challenge the impugned Sale Certificate dated 30.03.2023. We are therefore not inclined to interfere with the impugned Sale Certificate dated 30.03.2023. We however give liberty to the petitioner to file a statutory appeal before the Debt Recovery Tribunal within a period of 30 days from the date of receipt of a copy of this order.

8. In case such appeal is filed together with requisite pre-deposit, the Debt Recovery Tribunal shall admit the appeal and dispose of it on merits and in accordance with law.



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9. The present Writ Petition is liable to be dismissed. It is dismissed

with the above observations. No costs.

(A.D.J.C., J)

(C.S.N., J)

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Index: Yes/No

Speaking order / Non speaking order
vum/arr



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**A.D.JAGADISH CHANDIRA, J
and
C.SARAVANAN, J**

vum/arr

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