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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

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THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.19530 of 2023
and WMP.No.18791 of 2023

M/S. SAPTHAGIRI SEEDS
REP BY PARTNER MR NAVIN KUMAR
202/1 SUNNAAMBU THOTTAM ROAD,
NANJIAMPALAYAM P.O
DHARAPURAM, THIRUPPUR 638 657.

... petitioner

Vs.

1. THE DEPUTY GENERAL MANAGER
CANARA BANK REGIONAL OFFICE,
292 / 3, DHARAPURAM MAIN ROAD,
USHA RICE MILL COMPOUND,
USHA AVENUE, TIRUPUR 641 064.

2. THE AUTHORISED OFFICER,
M/S. CANARA BANK DHARAPURAM BRANCH,
4, BIG BAZAAR STREET,
DHARAPURAM, THIRUPPUR 638 656.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus Calling for reocrds pertaining to Auction cum Salem Notice dated 26.05.2023 on the File of the 2nd Respondent and consequently directing the 2nd Respondent to consider the



petitioners representation dated 07.06.2023 permitting to remove the agricultural produce and plant and machinery.

For petitioner : Mr. P.Madhavan

For Respondents : Mr.S.R.Sumathi RR1 & 2

ORDER

The prayer sought for herein is for calling for records pertaining to Auction cum Sale Notice dated 26.05.2023 on the file of the 2nd Respondent and consequently directing the 2nd Respondent to consider the petitioners representation dated 07.06.2023 permitting to remove the agricultural produce and plant and machinery.

2. The petitioner borrowed a sum of Rs.1,25,00,000/- towards loan from the second respondent Bank and the petitioner Firms account was declared as Non-performing asset subsequent to the Global pandemic and proceedings were initiated under the provisions of the SARFAESI Act by issuing notice dated 18.5.2021 under Section 13(2) of the SARFAESI Act followed by possession notice dated 31.08.2021 subsequently auction cum sale notice dated 26.05.2023 was issued whereby auction was scheduled on 30.08.2022. Challenging the said auction notice, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that the petitioner



have no objection with regard to the auction cum sale which was conducted by the second respondent for non payment of the loan amount. The grievance of the petitioner is that the second respondent is going to conduct auction in respect of 602 paddy bags, other machineries along with the petitioners property. The petitioner has never hypothecated the paddy to the Bank. The learned counsel for the petitioner, on instructions, submitted that without prejudice to their rights and contentions, are ready to pay a sum of Rs.6,00,000/- in respect of paddy alone to the second respondent within the stipulated time as fixed by this Court. Thereafter, this Court may direct the second respondent to release the 602 paddy to the petitioner and directed them to go for other items as mentioned in the auction notice in the manner known to law.

4. Mrs.R.Sumathy, learned Standing Counsel takes notice for the respondents 1 and 2.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The petitioner had hypothecated their property and borrowed a sum



of Rs.1,25,00,000/- as loan from the second respondent. For non payment of the loan amount, the second respondent has issued the present impugned auction notice to the petitioner. The claim of the petitioner is that the second respondent is intending to sell the movable properties viz., agricultural produce of paddy bags (602 paddy bags), machineries and also the building of the petitioner.

7. The petitioner, on their own volition, has come forward to pay a sum of Rs.6,00,000/- to the second respondent and requested to release 602 paddy bags alone. Taking into consideration the facts and circumstances of the case and the limited request sought for by the petitioner, this Court directs the petitioner to pay a sum of Rs.6,00,000/- (Rupees Six Lakhs only) to the second respondent within a period of two weeks from the date of receipt of a copy of this order. Upon receipt of such amount, the second respondent shall hand over 602 paddy bags alone to the petitioner within a period of one weeks, thereafter.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

30.06.2023

Index : Yes/No
Internet : Yes/No



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M.DHANDAPANI, J.

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