IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.20110 of 2023

1. Yess Vee Brothers
rep. by its Partner, S.Vasantha
No.331, Women Industrial Park
SIDCO, Thirumallaivoyal
Chennai – 600 062.

2. S.Vasantha
3. R.Selvaraj
4. Manohar Selvaraj .. Petitioners

Vs

1. State Bank of India
rep. by its Authorised Officer
SME Branch, Ambattur Industrial Estate
86A and B, II Main Road
Chennai – 600 058.

2. M.Mohanasundari
3. G.Parameswari .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records of the order of Debt Recovery Appellate Tribunal, Chennai in RA (SA) 179/2018 dated 9.3.2023, confirming the order dated

11.1.2018 of Debts Recovery Tribunal-III, Chennai in S.A.No.272 of 2017, quash the same and consequently direct the first respondent to restore possession of the properties comprised in S.No.144 part, Plot No.16, of Renganatha Nagar, Korattur Village, Ambattur Taluk, Thiruvalluvar District and property at Plot No.102, SIDCO Womens Industrial Park at Thirumullaivoyil comprised in S.No.153 part and 154 part of Vellanur Village, Ambattur Taluk, Thiruvallur District admeasuring about 4000 sq. mtrs.

For the Petitioners : Mr.S.Ramesh

ORDER

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

We have heard Mr.S.Ramesh, learned counsel for the petitioners.

2. The petitioners challenge the order passed by the Debts Recovery Tribunal and confirmed by the Debt Recovery Appellate Tribunal.

3. The petitioners had challenged the auction sale notice before the Debts Recovery Tribunal. It appears that there was no stay granted. The auction sale was conducted. The Debts Recovery Tribunal rejected the Securitisation Application filed by the

petitioners. The petitioners thereafter filed an appeal. In the appeal, the petitioners raised two grounds: (i) the property was undervalued; and (ii) the auction purchaser did not deposit the amount within the stipulated period as required under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002.

4. According to learned counsel for the petitioners, the sale had taken place on 10.11.2017 and the auction purchaser deposited the amount on 31.1.2018. There is no order by the bank/secured creditor extending the time for the auction purchaser to deposit the amount.

5. Learned counsel for the petitioners submits that the Appellate Tribunal failed to consider the submission with regard to the undervaluation of the property on the ground that the sale is not challenged. However, the sale had taken place during the pendency of the proceedings. On these two counts, the sale ought to have been set aside.

6. We have considered the submissions of learned counsel for the petitioners and have gone through the judgments passed by the Debt Recovery Appellate Tribunal and the Debts Recovery Tribunal.

7. It is a fact that the petitioners did not challenge the auction sale conducted. The petitioners had only challenged the auction sale notice. The petitioners also, it appears, did not amend the application and challenge the auction sale. When the petitioners failed to challenge the auction sale, there is no merit in contending that the auction purchaser has not deposited the amount within the stipulated period.

8. Moreover, under the proviso to Rule 8(6) of the Rules, power has been bestowed upon the bank/secured creditor to extend the time for the auction purchaser to deposit the amount to an extent of 90 days. The amount is deposited within 90 days even according to the petitioners. The bank/secured creditor has not objected to the same. It would appear that the bank/secured creditor in a way extended the time for the auction purchaser to

deposit the amount.

9. We do not find any error in the view taken by the Debt Recovery Appellate Tribunal and the Debts Recovery Tribunal.

In the light of that, no relief can be granted to the petitioners. The writ petition is disposed of accordingly. There will be no order as to costs. Consequently, W.M.P.No.19450 of 2023 is closed. W.M.P.No.19448 of 2023 filed to permit the petitioners to file a single writ petition is allowed and disposed of, inasmuch as they have paid separate sets of court fee.

(S.V.G., CJ.) (P.D.A., J.)

10.07.2023

Index : No
Neutral Citation : No
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To:

The Authorised Officer
State Bank of India
SME Branch, Ambattur Industrial Estate
86A and B, II Main Road
Chennai – 600 058.

THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU,J.

(sasi)

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