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W.P.No.25352 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.No.25352 of 2023

Mr.Satheesh Kumar

..

Petitioner

v.

1. The Authorized Officer

M/s PNB Housing Finance Limited

9th Floor, Antriksh Bhavan

22, Kasturba Gandhi Marg

New Delhi 110 001

2. M/s PNB Housing Finance Limited

No.14, 3rd Floor, Sudarsan Buildings

Whites Road

Royapettah

Chennai 600 014

..

Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to dispose of petitioner's reminder representation dated 26.05.2023 in continuation of his earlier representations dated 02.02.2023 and legal notice dated 10.01.2023 to execute the sale transaction as per the terms of the e-



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auction held on 28.07.2020 in respect of Plot No.3, South Portion, Thanikachalam Nagar, A Block, 3rd Main Road, Ponnammanmedu, Chennai, Tamil Nadu 600 110 area admeasuring land area – 1444 square feet, more fully described in the schedule to the petition and execute and register a sale certificate on receiving the remaining consideration.

Schedule of Property

All piece and parcel of vacant land situated in Plot No.3, South Portion, Thanikachalam Nagar, A Block, 3rd Main Road, Ponnammanmedu, Chennai, Tamil Nadu 600 110, area admeasuring land area – 1444 square feet, with the Registration district of Chennai North and Sub Registration district of Madhavaram.

For Petitioner :: Mrs.S.Vidya

ORDER

(Order of the Court was made by D.KRISHNAKUMAR,J.)

The petitioner herein is the auction purchaser. According to the petitioner, when the respondents issued a public notice on 14.02.2020 for sale of the petition mentioned property situated in Plot No.3, South Portion, Thanikachalam Nagar, A Block, 3rd Main Road, Ponnammanmedu, Chennai admeasuring 1444 square feet, as the borrower had defaulted in repayment of the loan, he participated in the e-public auction sale / private treaty on 28.07.2020 and offered a price of Rs.50,90,000/- for purchase of the



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aforementioned property, which was accepted by the respondents vide letter dated 31.07.2020. It is the further case of the petitioner that he paid the EMD of Rs.5,65,000/- through demand draft bearing No.506830 dated 18.06.2020 drawn on ICICI Bank Limited in favour of the respondent Bank and subsequently paid a further sum of Rs.7,57,500/- on 29.07.2020, in all totalling a sum of Rs.13,22,500/-. When the respondents have subsequently granted time for payment of the balance sale consideration within 90 days, the petitioner had paid the balance amount of Rs.38,17,500/- through demand draft bearing No.507037 dated 15.10.2020 drawn on ICICI Bank, Anna Nagar Branch. But the same has been returned for the reason that the owner/borrower of the property has approached the Debts Recovery Tribunal No.III, Chennai by filing S.A.No.87 of 2020 and the same is pending with an interim order. According to the petitioner, without even impleading him as a party, the aforesaid S.A., came to be disposed of on 19.10.2022. Therefore, the petitioner sent a notice to the respondent Bank on 10.01.2023 for accepting the balance amount and to issue the sale certificate. But the respondent Bank has not chosen to give any reply to the petitioner. Even the subsequent reminders sent by the petitioner also did



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not evoke any response. Therefore, he has filed the instant writ petition seeking for a direction to the respondents to consider his representation for payment of the balance consideration and to issue the sale certificate in respect of the property in question to the petitioner.

2. We have heard the submissions of the learned counsel appearing for the petitioner and also perused the records.

3. At the outset, we are not inclined to accept the contentions of the learned counsel appearing for the petitioner, for the following reasons. Admittedly, when the petitioner participated in the e-public auction conducted by the respondent Bank on 28.07.2020 for purchase of the property in question by quoting a price of Rs.50,90,000/- and also paid a total sum of Rs.13,22,500/- including the EMD of Rs.5,65,000/- on 29.07.2020 i.e, the next day of auction, the respondent Bank confirmed his bid by a letter dated 31.07.2020 with a further direction to the petitioner to pay the balance sum of Rs.38,17,500/- within 15 days from the receipt of the confirmation letter. It is also seen that the petitioner has accepted the



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WEB COPY said confirmation letter on the terms set out by the respondent Bank and acknowledged the same. However, considering the request of the petitioner, the respondent Bank has also extended the time for payment of the balance consideration i.e., within 90 days from the date of confirmation of sale. In the meanwhile, since the borrower filed S.A.No.87 of 2020 before the Debts Recovery Tribunal No.III, Chennai on 19.08.2020 and obtained an interim order, it appears that the respondent Bank has returned the demand draft bearing No.507037 dated 15.10.2020 drawn on ICICI Bank, Anna Nagar Branch for a sum of Rs.38,17,500/- to the petitioner. But there is no proof of acknowledgment nor any communication having been sent by the petitioner in this regard, has been produced before this Court. Besides, when the petitioner had the knowledge about the pendency of the S.A.No.87 of 2020 before the Debts Recovery Tribunal, he has not earnestly chosen to get himself impleaded as a necessary party to the said proceedings, on the ground that he has been declared as the successful auction purchaser of the property in question. It is also to be mentioned herein that the S.A.No.87 of 2020 filed by the borrower has also been dismissed on 19.10.2022 by the Debts Recovery Tribunal. The petitioner has not approached the Bank



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immediately. In our considered opinion, the petitioner has clearly missed the bus for not taking diligent steps to prosecute the matter either before the Debts Recovery Tribunal or before the respondent Bank, as he has chosen to send the notice to the respondent Bank only on 10.01.2023, after the expiry of 90 days time as mandated under Rule 9 of the Security Interest (Enforcement) Rules, 2002. Therefore, considering the delay and laches on the part of the petitioner, we are not inclined to entertain the writ petition and it is, accordingly, dismissed. Consequently, W.M.P.No.24757 of 2023 is also dismissed.

(D.K.K.,J.) (P.B.B,J.)
29.08.2023

Index : yes/no
Neutral citation : yes/no

SS

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