



W.P.No.26303 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

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M/s.Annai Electrical Company
Rep. by its Prop.Mr.B.Lakshmipathiraju
No.6/72, N.N.Pettai Street
Dharapuram – 638 656.

.. Petitioner

Vs.

1. Authorized Officer
Indian Overseas Bank, Kolinjivadi Branch
Vinayaka Plaza, 5 Corner
Dharapuram, Tirupur – 638 656.

2. M.Subramaniam

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records pertaining to the impugned sale certificate dated 06.12.2019 issued by the first respondent herein and quash the same as arbitrary and illegal and further restore the possession of the petitioner herein of the mortgaged property, which is the subject matter of S.A.No.584/2019, and consequently direct the first respondent to provide NOC and declare the same as encumbrance free.

For the Petitioner

: Mr.Harish Kumar



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ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.Harish Kumar, learned counsel for the petitioner.

2. The petitioner is challenging the sale certificate issued by the Bank in favour of the purchaser.

3.1. Learned counsel for the petitioner submits that the matter was settled in Lok Adalat between the parties. As per the said settlement, the petitioner was required to pay only a sum of Rs.20,53,000/- (Rupees Twenty Lakhs Fifty Three Thousand) on or before 31.12.2018. The petitioner deposited a sum of Rs.1 lakh. However, the son of the petitioner was suffering from Jaundice from 15.09.2018 to 21.02.2019, as such, by 31.12.2018, the said sum was not deposited.

3.2. The petitioner is challenging the sale notice before the Debts Recovery Tribunal, Coimbatore. The petitioner has given a proposal that the petitioner is ready to pay the said sum as per the compromise



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arrived at in the Lok Adalat. But, the proposal is not being accepted by the Tribunal under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The writ property is a residential house. The reserve price shown in the sale certificate is very low.

4.1. In fact, the present writ petition may not be tenable. It is not in dispute that the matter between the petitioner and the Bank was referred to the Lok Adalat. The claim of the Bank before the Debts Recovery Tribunal was Rs.53,31,936/- (Rupees fifty Three Lakhs Thirty One Thousand Nine Hundred and Thirty Six) along with interest at the rate of 13.45% per annum with monthly rests. Before the Lok Adalat, the matter was settled for a sum of Rs.20,53,000/- (Rupees Twenty Lakhs Fifty Three Thousand). As per Clause 2(b) of the settlement, the petitioner agreed to pay the above amount on or before 31.12.2018. The petitioner deposited only Rs.1 lakhs.

4.2. Clause 3 of the terms of settlement before the Lok Adalat states that if the petitioner commits default by not paying any one



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installment, then the Bank would be entitled for the entire claim of the amount due, as mentioned in Clause 1 till the date of realization and the Presiding Officer will issue the Recovery Certificate under Section 19(22) of the Recovery of Debts and Bankruptcy Act, 1993.

4.3. Admittedly, the petitioner did not pay the amount by 31.12.2018. Subsequently, the first respondent proceeded under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and it appears that the sale certificate is also issued on 06.12.2019.

5. In view of the fact that the award passed in the Lok Adalat is still in force, no other orders can be passed with regard to the quantum of the amount due and payable by the petitioner. The petitioner has challenged the notice of sale and the same is pending before the Debts Recovery Appellate Tribunal. It is for the petitioner to assail the sale certificate on the grounds as may be permissible under law.



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6. In the light of the above, no relief, as prayed for, can be granted to the petitioner. The writ petition, accordingly, stands disposed of. There will be no order as to costs. Consequently, W.M.P.No.25712 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No

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