



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.08.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR  
AND  
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P(MD)NO.11597 of 2022 and 195 of 2023  
and  
W.M.P(MD)No.8196 of 2022 and 13395 of 2023**

**W.P(MD)No.11597 of 2022**

A.Marimuthu

:Petitioner

.VS.

1.The Authorized Officer,  
ARM Branch, Canara Bank,  
1st Floor Circle Office St.Mary's Campus,  
East Veli Street,  
Madurai – 625 001.

2.The Authorized Officer/Branch Manager,  
Canara Bank, Rajapalayam Branch,  
Rajapalayam, Virudhunagar District.

3.C.Sivakumar

: Respondents

(R3 is impleaded as per order of this Court made  
in W.M.P(MD)No.14109 of 2022 in W.P(MD)No.1157 of 2022,  
dated 18.11.2022)

**W.P(MD)No195 of 2023**

G.Sivakumar  
represented by his power of attorney  
R.Revathi.

:Petitioner



.VS.

1.The Authorized Officer,  
ARM Branch, Canara Bank,  
1st Floor Circle Office, St.Mary's Campus,  
East Veli Street,  
Madurai – 625 001.

2.The Authorized Officer/Bank Manager,  
Canara Bank, Rajapalayam Branch,  
Rajapalayam, Virudhunagar District.

3.K.Marimuthu

:Respondents

**PRAYER in W.P(MD)No.11597 of 2022:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the respondents from in any manner proceeding with the sale of the Secured Assets of the Petitioner which are hypothecated with the respondent/Bank on the basis of the sale notice which is challenged in the subject matter of S.A.NO. 597 of 2021, on the file of the learned Debts Recovery Tribunal, Madurai.

**PRAYER in W.P(MD)No.195 of 2023:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first and second respondents to register the certificate of sale which was issued to the Petitioner, dated 21.4.2022 and consecutively if there occurs rival claim between the second and third respondents, direct the first and second respondents to refund the auction paid amount, a sum of Rs.1,83,80,000/-(One Crore eight three lakhs and eight thousand only) and the Registration fee, a sum of Rs.20,21,800/- cum security charges Rs.1,15,000/- with the current RBI interest.



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**W.P(MD)No.11597 of 2022**

For Petitioner :Mr.C.Gangai Amaran

For Respondents :Mr.C.Deepak  
Standing Counsel

**W.P(MD)No.195 of 2023**

For Petitioner :Mr.S.M.Ramasiva

For Respondents :Mr.C.Deepak  
1 and 2 Standing Counsel

For Respondent-3 :Mr.C.Gangai Amaran

**COMMON ORDER**

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**(Order of the Court was made by S.S.SUNDAR,J)**

W.P(MD)No.11597 of 2022 is filed by borrower for issuance of a Writ of Mandamus forbearing the respondents from in any manner proceeding with the sale of the Secured Assets of the Petitioner which are hypothecated with the respondent/Bank on the basis of the sale notice which is challenged in the subject-matter of S.A.NO. 597 of 2021, on the file of the learned Debts Recovery Tribunal, Madurai.

2.W.P(MD)No.195 of 2023 is by auction purchaser filed seeking issuance of a Writ of Mandamus directing the first and second respondents to register the certificate of sale which was



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issued to the Petitioner, dated 21.4.2022 and consecutively if there occurs rival claim between the second and third respondents, direct the first and second respondents to refund the auction paid amount, a sum of Rs.1,83,80,000/-(One Crore eight three lakhs and eight thousand only) and the Registration fee, a sum of Rs.20,21,800/- cum security charges Rs.1,15,000/- with the current RBI interest.

3.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

4.The borrower earlier challenged the sale notice before the Debts Recovery Tribunal in S.A.No.597 of 2021 and it is admitted that the Petitioner has not complied with the conditional order for granting interim order restraining the respondents from proceeding with the sale. Since the conditional order was not complied with, the respondent proceeded with the sale and the property was sold in favour of the Writ Petitioner in W.P(MD)No.195 of 2023. After the sale, sale certificate was also issued to the Petitioner.

5.Despite the sale and sale certificate was issued in favour of the auction purchaser, the Petitioner/borrower, who is the Petitioner



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in W.P(MD)No.11597 of 2022, has not come forward to make any payment to show any indulgence. In the said circumstances, this Court finds no merit in the Writ Petition and the Writ Petition in W.P(MD)No.11597 of 2022 is liable to be dismissed, on the very ground that the Petitioner can not have parrellel remedies and accordingly dismissed.

6.Since the auction has already been held in favour of a third party and the sale was also confirmed and the sale certificate was also issued and the Writ Petition filed by the Petitioner in W.P(MD)No.11597 of 2022 is dismissed, this Court finds no impediment for the auction purchaser to get the sale certificate registered. Therefore, W.P(MD)No.195 of 2003 is allowed, directing the respondents 1 and 2 to register the sale certificate in question. However, this order does not preclude the borrower to prosecute the proceedings before the Debts Recovery Tribunal, on merits.

7.Consequently, connected Miscellaneous Petitions are closed.

No costs.

**[S.S.S.R.,J.]      [D.B.C,J.]**  
**04.08.2023**



Index:Yes/No  
Internet:Yes/No  
NCC:Yes/No

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vsn

To

- 1.The Authorized Officer,  
ARM Branch, Canara Bank,  
Ist Floor Circle Office St.Mary's Campus,  
East Veli Street,  
Madurai – 625 001.
- 2.The Authorized Officer/Branch Manager,  
Canara Bank, Rajapalayam Branch,  
Rajapalayam, Virudhunagar District.



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**S.S.SUNDAR, J.**

**AND**

**D.BHARATHA CHAKRAVARTHY, J.**

vsn

**COMMON ORDER MADE IN**

**W.P(MD)NO.11597 of 2022 and**  
**195 of 2023**

**and**

**W.M.P(MD)No.8196 of 2022**  
**and 13395 of 2023**

**04.08.2023**