



W.P.(MD)No.6431 of 2008

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.6431 of 2008

Raveendran

... Petitioner

Vs.

1.The Recovery Officer,
Debts Recovery Tribunal,
4/162, Kalyani Towers,
Melur Road, Uthankudi,
Madurai – 625 107.

2.The Branch Manager,
Tamilnadu Mercantile Bank Ltd.,
Marthandam Branch, Marthandam,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, calling for the records pertaining to the orders of Forfeiture made by the first respondent in R.P.No. 158 of 2007 dated 05.11.2007 and quash the same and consequently, direct the first respondent to return the Earnest Money Deposit of Rs. 71,000/- with interest at 12 per cent per annum from the date of forfeiture till date of realisation.



W.P.(MD)No.6431 of 2008

For Petitioner : Mr.R.Hariharaselvan
for M/s.M.J.Shabu Jose

For Respondents : Mr.V.Karthikeyan for R2

ORDER

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

The order of the first respondent in R.P.No. 158 of 2007, dated 05.11.2007, is under challenge in the present writ proceedings.

2. Learned counsel for the petitioner made a submission that despite the efforts taken by him, he is not in a position to secure instructions to get along with the case. Learned counsel for the petitioner reported 'no instruction'.

3. However, we found that the petitioner participated in the public auction held on 02.11.2008 and the EMD deposited by him is yet to be returned by the first respondent. The first respondent is not entitled to possess the said E.M.D. and in such an event, it will result in unjust enrichment. Therefore, the first respondent is directed to refund the Earnest Money Deposit recovered from the petitioner within a period of eight weeks from the date of receipt of a copy of this order, if not already returned.



W.P.(MD)No.6431 of 2008

4. With these directions, the Writ Petition stands disposed of. No costs.

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(S.M.S., J.) & (V.L.N., J.)
21.11.2023

NCC : Yes / No

Index : Yes / No

SJ



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W.P.(MD)No.6431 of 2008

S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

SJ

W.P.(MD)No.6431 of 2008

21.11.2023