



W.P.(MD) No.1189 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.1189 of 2021

Dharmaraj.M

... Petitioner

-Vs-

1.The Authorized Officer,

Bank of Baroda, No.115, Eswari Towers,
1st Floor, Near Archana Darsana Theatre,
Devaganga High School Road,
R.S.Puram, Coimbatore-641 002.

2.The Branch Manager,

Bank of Baroda, (Previously Dena Bank),
No.115, Eswari Towers,
1st Floor, Near Archana Darsana Theatre,
Devaganga High School Road,
R.S.Puram, Coimbatore-641 002.

... Respondents

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned communication dated 13.01.2021 on the file of the 1st respondent and quash the same as arbitrary, illegal and without jurisdiction and consequently, direct the respondents to receive the balance of sale consideration by extending the time invoking Sub Rule 4 of Rule 9 of Security Interest Enforcement Rules, 2002.

For Petitioner : Mr.H.Lakshmi Shankar

For R1 : Mr.K.Muraleedharan

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Challenging the communication of the 1st respondent dated 13.01.2021, communicating the petitioner that the property in question was sold and his representation for extension of time for payment could not be considered, this Writ Petition is filed with a consequential direction to the respondents to receive the balance sale consideration by extending the time invoking Sub Rule 4 of Rule 9 of Security Interest Enforcement Rules, 2002.

2.The learned counsel appearing for the petitioner submitted that the petitioner was the successful bidder in the auction conducted by the respondent

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Bank and paid 25% of the sale consideration to the respondent Bank. In the meantime, the borrower, suppressing this fact, filed an appeal before the Debts Recovery Tribunal, Madurai and obtained an interim order. Thereafter, on 16.11.2020, the respondent Bank issued a sale confirmation advice, asking the petitioner to remit the balance sale consideration on or before 30.11.2020. Therefore, the petitioner paid a sum of Rs.25,13,000/- on 27.11.2020 and submitted an application dated 27.11.2020, seeking extension of time to pay the balance sale consideration. However, there is no response from the Bank. He further submitted that the petitioner came to know that the respondent Bank offered One Time Settlement to the borrower and the same has been accepted by the borrower. However, the respondent Bank has not refunded the aforesaid amount paid by the petitioner. Therefore, the petitioner is entitled for refund of amount along with reasonable interest.

3.The learned counsel appearing for the respondent Bank submitted that the petitioner has not made any request for refund of amount paid by him. If the petitioner makes any representation in this regard, the same will be



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considered by the respondent Bank and appropriate decision will be taken, including payment of interest.

4.In the light of the aforesaid submission, since there is no request made before the respondent Bank seeking refund of amount, the petitioner is permitted to make a request before the respondent Bank, within a period of two weeks from the date of receipt of a copy of this order and on such request, the respondent Bank shall consider the same on its own merits and take appropriate decision and communicate the same to the petitioner, as soon as possible, preferably, within a period of four weeks thereafter.

5.With the above direction, this Writ Petition stands disposed of. No costs.

[D.K.K., J.] & [R.V., J.]
07.02.2023
(2/3)

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

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