



W.P(MD)No.1017 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P(MD)No.1017 of 2023
and
WMP(MD)No.961 of 2023

D.Karunakaran

... Petitioner

vs.

1. The Deputy General Manager,
CANARA BANK,
Regional Office, Palani Road,
Dindigul.

2. The Manager,
Canara Bank, Kulathoor Branch,
Dindigul.

3. The Authorised Officer,
Canara Bank, Palani Road,
Dindigul.

... Respondents

PRAYER : Writ Petition filed under Article 236 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Respondents resulting in the 3rd respondent's impugned sale notice dated 19.12.2022 issued in Ref No. SAR/1583619018398/KARUNAKARAN for bringing the dwelling house of



W.P(MD)No.1017 of 2023

the petitioner's property situated at No.3, 3K Promoters, Green Garden, Chennamanayakkanpatti, Collectorate Post, Dindigul and quash the same and direction directing the respondents 1 and 2 to consider the petitioner's representation dated 03.01.2023 by extending the 5 months time to settle the principal amount together with interest or avail the one time settlement (OTS) for repayment of loan amount and also co-operate the petitioner to sell his property bearing Old No.407/3 and New S.No.407/3A at a reasonable or higher value.

For Petitioner : Mr.V.R.Venkatesan

For Respondents : Mr.P.Pethurajesh, Standing Counsel

ORDER

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

Challenging the Sale Notice dated 19.12.2022, the petitioner has filed this writ petition to quash the same with a consequential direction to the respondents 1 and 2 to consider his representation dated 03.01.2023 seeking 5 months time to settle the principal amount together with interest or to avail the one time settlement (OTS) for repayment of the loan amount and also to co-operate with the petitioner for selling his property for higher value.



W.P(MD)No.1017 of 2023

2. On 19.01.2023, we passed the following order:-

WEB COPY

"Challenging the impugned sale notice issued by the third respondent, dated 19.12.2022, the petitioner has filed the present Writ Petition.

2. According to the petitioner, he has agreed to pay a sum of Rs.2,00,000/- on or before 20.01.2023 before 03.00 p.m., and further stated that he will pay the entire outstanding amount within a period of five months.

3. The learned standing counsel appearing for the respondent Bank has agreed for payment of the said instalments by the petitioner, but he has insisted upon the petitioner to pay the outstanding amount in equated monthly instalments to the respondent Bank.

4. Considering the submissions made on either side, the sale as scheduled may go on, but confirmation of the sale shall be kept in abeyance subject to the condition that the petitioner shall pay a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) to the respondent Bank, on or before 20.01.2023 before 03.00 p.m., failing which, the respondent Bank may proceed further to confirm the sale.

5. Post on 23.01.2023."

3. Today, when the writ petition was taken up for hearing, learned counsel for the petitioner submitted that the aforesaid



W.P(MD)No.1017 of 2023

conditional order is complied with by the petitioner by paying a sum of Rs.2,00,000/- before 20.01.2023. He has also produced the undertaking affidavit dated 23.01.2023 filed by the petitioner, wherein, the petitioner undertakes to pay the remaining outstanding amount excluding the penal interest and other charges, in five equated monthly instalments.

4. The aforesaid undertaking affidavit dated 23.01.2023 is served to the learned counsel for the respondents, who submitted that he has no objection for the aforesaid payment schedule, but however, submitted that liberty may be granted to the respondents to proceed against the petitioner in case of default in payment of any one of the above instalments.

5. Recording the undertaking affidavit dated 23.01.2023, we direct the petitioner to pay the remaining outstanding amount in five consecutive equal monthly instalments, of which, the first instalment shall be paid on or before 23.02.2023 and the subsequent instalments shall be paid on or before the 23rd day of succeeding English Calendar months until the entire payment is made. Till such time, the



W.P(MD)No.1017 of 2023

respondents shall not take any coercive action against the petitioner. If the petitioner commits default in payment of the amount in any one of the aforesaid instalments, the respondents Bank is at liberty to proceed further in accordance with law.

6. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K.,J.] & [R.V.,J.]
23.01.2023

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



WEB COPY



W.P(MD)No.1017 of 2023

D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

bala

ORDER MADE IN
W.P(MD)No.1017 of 2023
DATED : 23.01.2023