



WMP(MD) No.1309 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Tuesday, the Eighth day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice R.MAHADEVAN
and
The Hon`ble Mr.Justice J.SATHYA NARAYANA PRASAD

W.M.P.(MD)No.1309 of 2023
in
W.P.(MD)No.12020 of 2022

L.ISITHORE

... PETITIONER/PETITIONER

Vs

1 THE AUTHORISED OFFICER
TAMILNAD MERCANTILE BANK LTD.,
TIRUPUR BRANCH, 233-236,
KAMARAJAR ROAD,
PALLADAM ROAD,
TIRUPUR - 641 604.

2 THE AUTHORIZED PERSON,
M/S.TRI DOT REAL ESTATES PVT.LTD.,
9,KOONANGULAM, NORTH STREET,
SRIVILLIPUTHUR,
VIRUDHUNAGAR-626165.

... RESPONDENTS/RESPONDENTS

(R2 IS IMPEADED VIDE COURT ORDER
DATED 11.10.2022 IN WMP(MD)NO.15851 OF
2022 IN WP(MD)NO.12020 OF 2022)



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Writ Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to extend further period of 4 weeks time from 11.01.2023 to comply the 3rd instalment conditional amount and the remaining 3 instalments in consecutive equal monthly instalments thereof as per the orders of this Honble Court dated 11.10.2022 in WP (MD) 12020/2022.

Prayer in WP(MD). 12020/ 2022 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned auction sale notice dated 25.05.2022 issued by the respondent and quash the same as illegal.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.N.DILIPKUMAR, Advocate for the Respondents and not appeared for the petitioner either in person or through by an advocate for the petitioner, the court made the following order:-

This miscellaneous petition is filed by the writ petitioner seeking to extend the time by further period of four weeks from 11.01.2023 so as to comply with the order of this court dated 11.10.2022 in W.P.(MD)No.12020 of 2022.



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2. There is no representation for the petitioner. Heard the learned counsel appearing for the respondent Bank and also perused the materials available on record.

3. It is averred in the affidavit filed in support of this petition that the petitioner had preferred the aforesaid writ petition viz., W.P.(MD)No.12020 of 2022, to quash the auction sale notice dated 25.05.2022 issued by the first respondent, under the SARFAESI Act, in respect of the property standing in his name, which was given as collateral security for the loan facility extended to his firm. Considering the fact that the petitioner had already paid the first instalment and he was ready to pay Rs.20,00,000/- immediately and the remaining outstanding amount in instalments, which was agreed by the learned counsel for the respondent bank and that, the quantum of remaining outstanding loan amount is huge (i.e.,) Rs.1,30,00,000/-, this court has disposed of the said writ petition, by directing the petitioner to pay the entire remaining outstanding amount in six consecutive equal monthly instalments and the first instalment should be paid on or before 11.11.2022 and the subsequent five instalments should be paid on or before 11th day of every English Calendar month, failing which, it is open to the respondent bank to register the sale certificate in accordance with law. It is further stated that as directed by this court, the petitioner



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paid the 2nd instalment amount of Rs.18,33,350/- (calculated as per the outstanding amount of Rs.1.30 crores on 11.10.2022) by way of demand draft to the first respondent bank on 12.12.2022, which was also accepted by the bank. Thereafter, the petitioner took a demand draft on 12.01.2023 for a sum of Rs.18,33,350/- towards the third instalment and attempted to pay the same to the first respondent bank, but the said amount was not accepted by the bank. Therefore, the petitioner has come up with this miscellaneous petition seeking extension of time to pay the 3rd instalment as well as the remaining instalments in consecutive equal monthly instalments.

4. Today, when the matter was taken up for consideration, the learned counsel appearing for the respondent Bank submitted that the petitioner had paid only two instalments and defaulted in payment of the remaining instalments as directed by this court vide order dated 11.10.2022 in the aforesaid writ petition. Consequently, sale was effected and sale confirmation letter was also issued in favour of the second respondent on 23.03.2022.

5. In view of the subsequent development as stated above and also considering the fact that the period of extension sought for by the petitioner has already lapsed, this court is of the opinion that no further order needs to be passed herein. Therefore,



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this petition stands dismissed. It is open to the first respondent bank to proceed further in the manner known to law.

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sd/-
08/08/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

rns

TO

THE AUTHORISED OFFICER
TAMILNAD MERCANTILE BANK LTD.,
TIRUPUR BRANCH, 233-236,
KAMARAJAR ROAD, PALLADAM ROAD,
TIRUPUR - 641 604.

ORDER
IN
W.M.P.(MD)No.1309 of 2023
in
W.P.(MD)No.12020 of 2022
Date :08/08/2023

RK/VRS (23/08/2023) 5P /2C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023