



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR  
and  
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.1816 of 2023  
and  
W.M.P.(MD)No.1625 of 2023

1.M/s.Gurudev Matriculation School,  
Rep. by its Authorized Signatory,  
No.106/3, Sembar, Near Madurai Main Road,  
Boothipuram,  
Madurai 625 532.

2.M/s.Gurudev Educational and Charitable Trust,  
Rep. by its Authorized Signatory,  
No.106/3, Sembar, Near Madurai Main Road,  
Boothipuram,  
Madurai 625 532.

3.R.Gnanasekaran

4.G.Adhisdalakshmi ... Petitioners

Vs.

1.The Authorized Officer,  
M/s.Vardhana Finance Private Limited,  
166, Keelapura Street, Upstair Hotel Magil,  
Bye Pass Road, Madurai - 625 016.

2.The Branch Manager,  
M/s.Vardhana Finance Private Limited,  
166, Keelapura Street, Upstair Hotel Magil,  
Bye Pass Road, Madurai - 625 016. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the Auction sale Notice in Ref No. SARFAESI/376/2022-23 dated 17.01.2023 quash the same as illegal, arbitrary and gross violation of principles of natural justice and consequently direct the 1<sup>st</sup> respondent to restore the petitioners' property scheduled in the said auction sale notice on payment of the entire outstanding due payable to the 1<sup>st</sup> respondent as per the agreement of the One Time Settlement dated 07.11.2022 within such period.



For Petitioners : Mr.W.Pamelin  
For Respondents : Mr.A.Sivasubramanian

**O R D E R**

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

In view of the fact that the Debts Recovery Tribunal, Madurai is functioning once in a week, we are inclined to entertain this Writ Petition.

2. Challenging the Auction Sale notice in Ref No. SARFAESI/376/2022-23 dated 17.01.2023, the petitioners have filed this Writ Petition.

3. The learned counsel appearing for the petitioners submitted that challenging the earlier sale notice issued by the respondents - Bank, the petitioners have filed a petition before the Debts Recovery Tribunal, Madurai in S.A.No.319 of 2022 and a conditional interim order has been passed, by directing the petitioners to deposit a sum of Rs.44 lakhs in two installments. Due to financial constraints, the petitioners are not in a position to pay the said amount and therefore, they have filed a petition for extension of time and the said petition was posted for hearing on 03.04.2023. In the meantime, the respondents - Bank has issued the impugned auction sale notice. As against the same, the petitioners have filed this Writ petition.

4. The learned counsel for the petitioners further submitted that the petitioners are ready to pay a sum of Rs.10 lakhs today itself to the respondent bank and thereafter, pay the remaining amount of Rs.34 lakhs within a period of **(\*)four Weeks**. Hence, she seeks for stay of the auction sale to be held on 10.02.2023.

5. The learned counsel for the respondents - Bank has no serious objection for the aforesaid terms.

6. In the light of the above submissions, we are inclined to pass the following order:

a) The petitioners are directed to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) today itself i.e., on 09.02.2023 before 5.00 p.m. to the respondents - Bank;

b) **(\*)Thereafter, the petitioners shall pay the remaining amount of Rs.34 lakhs within four weeks from 11.02.2023.**

c) c) If the petitioners pay the amount of Rs.10 lakhs today, the respondents - Bank shall not proceed with the auction sale to be held on 10.02.2023. **(\*)If**



the petitioners fail to pay the remaining amount Rs.34 lakhs, the respondents - Bank is at liberty to proceed further in accordance with law."

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

Sd/-

Assistant Registrar(CS-I)

**(\*)Corrected ad per the order of this court dated 15.02.2023**

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/02/2023

Sub Assistant Registrar(CS)

vsm

**(\*)To be substituted the order already despatched on 10.02.2023**

To

1.The Authorized Officer,  
M/s.Vardhana Finance Private Limited,  
166, Keelapura Street, Upstair Hotel Magil,  
Bye Pass Road, Madurai - 625 016.

2.The Branch Manager,  
M/s.Vardhana Finance Private Limited,  
166, Keelapura Street, Upstair Hotel Magil,  
Bye Pass Road, Madurai - 625 016.

+1 CC to M/s.W.PAMELIN, Advocate ( SR-7183[F] dated 09/02/2023 )

W.P. (MD)No.1816 of 2023  
09.02.2023

ms (CO)

KB(10.02.2023) 3P 4C

**KB(27.02.2023) 3P 4C**