



W.P(MD)No.2202 of 2023

WEB COPY 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.2202 of 2023

G.Sahayadhas

... Petitioner

vs.

The Authorised Officer,
Tamil Nadu Mercantile Bank,
Nagercoil Branch,
229-A, Charles Miller Street,
Nagercoil,
Kanyakumari District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned sale cum auction notice dated 12.01.2023 for sale cum auction of the petitioner's property scheduled on 17.02.2023 and quash the same as illegal.

For Petitioner : Mr.B.Janarth Kumar

For Respondent : Mr.N.Dilip Kumar
Standing Counsel



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ORDER

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

Mr.N.Dilip Kumar, learned standing counsel takes notice for the respondent. By consent of both the parties, the Writ Petition is taken up for final disposal at the time of admission.

2.The prayer in this Writ Petition is seeking for issuance of a Writ of Certiorari, to quash the impugned sale cum auction notice dated 12.01.2023 for sale cum auction of the petitioner's property scheduled on 17.02.2023.

3.Since the Presiding Officer, Coimbatore, is in charge of the Debts Recovery Tribunal, Madurai and the Debts Recovery Tribunal, Madurai is functioning weekly once ie., on every Friday, the petitioner has filed the present Writ Petition.

4.The learned counsel appearing for the petitioner submitted that earlier the petitioner filed an application in S.A.No.76 of 2020 before



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the Debts Recovery Tribunal, Madurai, challenging the impugned auction sale notice, dated 23.01.2020 and the Debts Recovery Tribunal, Madurai granted an interim stay in I.A.No.323 of 2020, dated 27.02.2020, with a condition to pay a sum of Rs.3,76,000/- on or before 30.03.2020 as first instalment and another sum of Rs.3,76,000/- on or before 27.04.2020 as the second instalment. However, the respondent Bank sealed the property on 23.11.2021. Challenging the same, the petitioner filed a writ petition in W.P(MD)No.35901 of 2022 and this Court, by order dated 01.03.2022, granted liberty to the petitioner to approach the Debts Recovery Tribunal. In the meantime, the Debts Recovery Tribunal, Madurai, by order dated 06.01.2021, dismissed the application in S.A.No.76 of 2020 as infructuous. Thereafter, the respondent Bank issued the present impugned notice, dated 12.01.2023. Challenging the same, the petitioner has filed the present Writ Petition.

5.The learned counsel appearing for the petitioner further submitted that the aforesaid disposal of the application in S.A.No.76 of 2020 before the Debts Recovery Tribunal, Madurai is at the instance of the respondent Bank and the respondent Bank has not furnished the statement of accounts.



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6.The learned counsel appearing for the respondent Bank submitted that the aforesaid application in S.A.No.76 of 2020 before the Debts Recovery Tribunal, Madurai, has been dismissed as infructuous. Therefore, the respondent Bank issued the present impugned auction sale notice for inviting the bidders to participate in the said auction.

7.The learned counsel appearing for the respondent Bank further submitted that the auction is scheduled to be held on 17.02.2023. Hence, if the petitioner is aggrieved, he can move before the Debts Recovery Tribunal for getting appropriate orders or to show his bona fide, the petitioner has to pay some amount to the respondent Bank out of the outstanding amount of Rs.26,88,634/- as of 31.01.2023.

8.Considering the submissions made on either side, this Court is inclined to pass the following order:-

(i) The petitioner is directed to pay a sum of Rs.4,00,000/- to the respondent Bank on or before 16.02.2023.



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(ii) In the meantime, liberty is granted to the petitioner to approach the Debts Recovery Tribunal, Madurai seeking for further relief, as per law, if he is so advised.

(iii) If the petitioner paid the said amount of Rs.4,00,000/- on or before 16.02.2023, the respondent Bank shall not proceed with the auction sale scheduled to be held on 17.02.2023.

(iv) If the petitioner failed to comply with the conditions as mentioned in clauses (i) and (ii), it is open to the respondent Bank to proceed with the auction in accordance with law.

9. With the above directions, this Writ Petition is disposed of. No costs.

[D.K.K.,J.] [L.V.G.,J.]
09.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

Note:- Registry is directed to return the original copy of the auction sale notice, dated 12.01.2023 to the petitioner, after obtaining photostat copy of the same.



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To

The Authorised Officer,
Tamil Nadu Mercantile Bank,
Nagercoil Branch,
229-A, Charles Miller Street,
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Kanyakumari District.



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D. KRISHNAKUMAR,J.
and
L.VICTORIA GOWRI,J.

ps

ORDER MADE IN
W.P(MD)No.2202 of 2023

DATED : 09.02.2023