



W.P.(MD) No.3384 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2023

CORAM:

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

W.P.(MD) No.3384 of 2023
and
W.M.P.(MD) Nos.3137 & 3138 of 2023

Jaisankar

... Petitioner

-VS-

The Chief Manager / Authorized Officer
M/s.Tamilnadu Mercantile Bank
Cumbum Branch
No.213, A/W-18, Odakkarai Street
Cumbum-625 516
Theni District

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the entire records in relating to the impugned order dated Nil, made in S.A.No.31 of 2023, on the file of the learned Debt Recovery Tribunal, Madurai, and the sale notice dated 13.01.2023, issued by the respondent and set aside the same.



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For Petitioner : Mr.S.Vidhya Sagar

For Respondent : Mr.P.Pethu Rajesh

ORDER

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

Challenge in this writ petition is to the order dated Nil, made in S.A.No.31 of 2023, on the file of the Debts Recovery Tribunal, Madurai, and Sale Notice dated 13.01.2023, issued by the respondent – Bank.

2. On 21.02.2023, after hearing the learned counsel for the petitioner, this Court has passed the following order:

“After elaborate arguments the learned counsel for the petitioner is ready to pay a sum of Rs.3 lakhs within three weeks and pay a sum of Rs.3 lakhs within three weeks thereafter. Further, he has also agreed to pay the remaining amount in three equated monthly instalments and he seeks time to file an undertaking affidavit.

Post on 22.02.2023 under the caption “for orders”.



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3. Pursuant to the above order, today, the petitioner has filed an undertaking affidavit, dated Nil.02.2023, before this Court. The relevant portion of the undertaking affidavit is extracted hereunder:

“6. I mostly respectfully submits that as per the direction of the Hon'ble Tribunal I undertook to pay the sum of 3 lakhs rupees within the period of 3 weeks ie., 15.03.2023 and after furthermore 3 weeks to pay the sum of 3 lakh rupees ie., 05.04.2023 and after due payment of the same I also hereby undertake to pay the entire admitted remaining outstanding amount of in 6 equated monthly installments for my property from the respondent bank.”

4. Learned counsel for the respondent – Bank is also agreeable for the above undertaking given by the petitioner, however, submits that the balance outstanding amount may be directed to be paid in five equated monthly installments instead of six installments and also seeks liberty to the respondent – Bank to proceed against the petitioner in case of default in payment of any of the installments.



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5. In view of the above undertaking affidavit given by the petitioner, he shall pay a sum of Rs.3,00,000/- (Rupees three lakhs only) on or before 15.03.2023, another sum of Rs.3,00,000/- (Rupees three lakhs only) on or before 05.04.2023, thereafter, pay the remaining outstanding amount in five consecutive monthly installments commencing from 05.05.2023 and the last installment shall be paid on or before 05.09.2023. Till such time, no coercive steps shall be taken by the respondent – Bank. If the petitioner fails to pay any one of the above payments, it is open to the respondent – Bank to proceed further in accordance with law.

6. At this juncture, learned counsel appearing for the respondent – Bank submitted that in view of the above orders passed by this Court, S.A.No.31 of 2023 filed by the petitioner before the Debts Recovery Tribunal, Madurai, challenging the sale notice dated 13.01.2023 issued by the respondent – Bank, may be directed to be withdrawn,.

7. In reply, learned counsel for the petitioner undertakes that the petitioner is ready to withdraw the pending S.A.No.31 of 2023 filed by him.



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8. The above undertaking given by the learned counsel for the petitioner is hereby recorded.

9. The writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.]

[L.V.G., J.]

22.02.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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