



WEB COPY

W.P.(MD)No.4596 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2023

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR**

**W.P.(MD)No.4596 of 2023
and
W.M.P.(MD)No.4303 of 2023**

A.Muthukrishna Pandi

... Petitioner

-VS-

1.The Authorised Officer,
Indian Bank,
Avaniapuram Branch,
34/35, Aruppukottai Main Road,
Villapuram, Avaniapuram,
Madurai – 625012.

2.The Branch Manager,
Indian Bank,
Avaniapuram Branch,
34/35, Aruppukottai Main Road,
Villapuram, Avaniapuram,
Madurai – 625012.

... Respondents

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 pertaining to the impugned e-Auction sale notice dated 24.01.2023 and 02.02.2023, issued by the first respondent and quash the same.



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For Petitioner : Mr.G.Mohankumar
For Respondents : Mr.C.Karthick
Standing Counsel

ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

With the consent of parties, the writ petition itself is taken up for final disposal.

2. The petitioner has filed the present Writ Petition seeking to quash the impugned e-Auction sale notice, issued by the first respondent, dated 24.01.2023 and 02.02.2023.

3. Mr.C.Karthick, learned Standing Counsel takes notice for the respondents.

4. Learned counsel appearing for the petitioner would submit that the petitioner is doing business in manufacturing plastics suitcase beading in the name of style of M/s.Santhosh Plastic at Pottapalayam Village by availing working capital to the tune of Rs.7.50 Lakhs and further term loan of Rs.7.03 Lakhs under Prime Minister's Employment Guarantee Programme [PMEGP] and another working capital under PMEGP for Rs.1.50 Lakhs and



emergency credit line during Covid-19 Pandemic situation for Rs.2.50 Lakhs. The total principal loan amount comes to Rs.18.62 Lakhs. The petitioner was regular with the loan repayment and cash credit facility was also maintained. However, due to Covid-19 Pandemic situation, the business suffered loss. Therefore, the respondent Bank initiated recovery proceedings by issuing a demand notice, dated 18.06.2022, demanding a total sum of Rs. 11,91,853/- as on 17.06.2022. Under the said circumstances, on 02.02.2023, the petitioner received the impugned sale notice, dated 24.01.2023, claiming a sum of Rs.13,71,857/- as due as on 23.01.2023 and fixing the auction sale to be conducted on 28.02.2023. Thereafter, the respondent Bank issued another impugned sale notice, dated 02.02.2023, claiming Rs.13,76,776/- as due as on 01.02.2023 and fixing the auction sale to be conducted on 04.03.2023. Challenging the same, the present Writ Petition has been filed.

5. Learned counsel for the petitioner would submit that the petitioner is prepared to pay Rs.3,00,000/- and thereafter, he may be given liberty to approach the respondent Bank officials either for One Time Settlement or for restructuring the loan account.



6. Mr.C.Karthick, learned Standing Counsel appearing for the respondent Bank would submit that after issuing first sale notice, the respondent Bank thought it fit to issue second sale notice dated 02.02.2023, fixing the auction sale on 04.03.2023. As long as the petitioner is not coming forward to clear the entire outstanding amount, the respondent is entitled to bring the property for sale for the purpose of realizing the debt. Therefore, the same cannot be questioned.

7. Firstly, since the post of Presiding Officer, Debts Recovery Tribunal, Madurai, is lying vacant and the Presiding Officer, Debts Recovery Tribunal, Coimbatore, is given in-charge and he is taking up cases pertaining to DRT, Madurai, on every Fridays only, we entertain this writ petition.

8. Secondly, the petitioner has come to this Court at the earliest when the first sale notice, dated 24.01.2023, fixing the auction sale on 28.02.2023. We do not find any justification for issuing second sale notice, dated 02.02.2023 even before expiry of the first sale stood expired. Since the petitioner has now come forward to pay Rs.5,00,000/- [Rupees Five Lakhs only], we direct



him to pay a sum of Rs.5,00,000/- [Rupees Five Lakhs only] within a period of two weeks from today. After payment of the said amount, the petitioner is given liberty to approach the respondent Bank Officials either for OTS or for restructuring the loan account within a period of one week. If the petitioner comes forward after depositing a sum of Rs.5,00,000/- as directed above, the same shall be considered.

9. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[T.R., A.C.J.] [D.K.K., J.]
03.03.2023

NCC : Yes / No
Index : Yes / No
Internet: Yes / No
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T.RAJA, A.C.J.
and
D.KRISHNAKUMAR, J.

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ORDER MADE IN
W.P.(MD)No.4596 of 2023
DATED : 03.03.2023