



W.P.(MD) No.4325 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.4325 of 2023

and

W.M.P.(MD)No.4079 of 2023

Viswanathan

... Petitioner

-Vs-

1.The Authorized Officer,
Indian Overseas Bank,
Lalgudi Branch, No.41, Popular Arcade,
Main Road, Trichy District.

2.Edwin Rethinam

3.The District Collector,
Trichy District, Trichy.

4.The Tahsildar,
Lalgudi Taluk, Trichy District.

... Respondents

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned communication bearing No.Na.Ka.A7/3897/2022, dated 21.02.2023 on the file of the 4th respondent and quash the same as illegal.

For Petitioner : Mr.R.Shankar Gandhi
For R1 : Mr.N.Dilip Kumar,
Standing Counsel
For R3 and R4 : Mr.M.Sarangan,
Additional Government Pleader

ORDER

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

Challenging the communication of the 4th respondent, this Writ Petition is filed.

2.Mr.N.Dilip Kumar, learned Standing Counsel takes notice on behalf of the 1st respondent and Mr.M.Sarangan, learned Additional Government Pleader takes notice for the respondents 3 and 4. Considering the nature of order proposed to be passed in this Writ Petition, notice to the 2nd respondent is dispensed with.

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3.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4.According to the petitioner, he availed loan from the 1st respondent, by mortgaging the property in Natham S.F.No.128 situated at Sathamangalam Village, Lalgudi Taluk, Trichy District. Due to financial crisis, the petitioner has not repaid the loan. Therefore, the 1st respondent issued sale notice dated 21.08.2010 and conducted auction, wherein the 2nd respondent was a successful bidder and the sale certificate was also issued in favour of him. Challenging the same, the petitioner filed S.A.No.234 of 2012 before the Debts Recovery Tribunal, Madurai and the same was dismissed. Aggrieved by the same, the petitioner filed an appeal in A.I.R.(S.A).No.120 of 2016 before the Debts Recovery Appellate Tribunal, Chennai, wherein the petitioner was directed to deposit a sum of Rs.1,40,000/- within one month. However, due to demonetization, the petitioner was not able to pay the said amount. Therefore, the said appeal was also dismissed by order dated 10.01.2017. Challenging the



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same, the petitioner filed W.P.(MD)No.1971 of 2022 and the same was also dismissed by this Court vide order dated 02.02.2022. Thereafter, the 3rd respondent ordered to take physical possession of the property in question. Challenging the same, the petitioner filed W.P.(MD)No.13034 of 2022 and the same was also dismissed on 06.02.2023. Now, the 4th respondent issued the impugned communication dated 21.02.2023, stating that physical possession of the property in question will be handed over to the 1st respondent on 02.03.2023. Therefore, the petitioner is before this Court.

5.The learned Standing Counsel appearing for the 1st respondent submitted that the petitioner has availed all the remedy before the Debts Recovery Tribunal, Madurai, Debts Recovery Appellate Tribunal, Chennai as well as before this Court.

6.A perusal of the records shows that the petitioner borrowed loan from the 1st respondent. Since he failed to repay the loan amount, the 1st respondent initiated SARFAESI proceedings and brought the property in



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question under auction, wherein, the 2nd respondent was the successful bidder, for which, the sale certificate was issued in favour of him and the same was also registered in Document No.4285 of 2010. The said fact was also mentioned by this Court in its order dated 06.02.2023 made in W.P.(MD)No.13034 of 2022 filed by the petitioner. Therefore, the right to redemption stands extinguished on the execution of the registered sale deed. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

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

01.03.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

MYR

To

1.The District Collector,
Trichy District, Trichy.

2.The Tahsildar,
Lalgudi Taluk, Trichy District.

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