



W.P.(MD) No.5439 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.5439 of 2023
and
W.M.P.(MD) No.5091 of 2023**

S.Ganesan

... Petitioner

-VS-

1.The Authorized Officer
Indian Overseas Bank
Regional Office
No.661/1, South 4th Street
Subramaniyapuram
Karaikudi-630 002

2.The Branch Manager
Indian Overseas Bank
Pudukkottai Branch
Pudukkottai

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the impugned E-auction sale notice dated 03.03.2023, issued by the first respondent under SARFAESI Act, 2002 and quash the same as illegal.

For Petitioner : Mr.T.Veerakumar

For Respondents : Mr.R.Pandivel, Standing Counsel

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Challenge in this writ petition is to the e-auction sale notice, dated 03.03.2023, issued by the first respondent.

2. Even though learned counsel for the petitioner would contend that the sale notice is issued on 03.03.2023 and the sale is to be held on 23.03.2023, within thirty days, therefore, the sale notice is bad, learned Standing Counsel appearing for the respondent – Bank would submit that this is the fourth sale notice and therefore, fifteen days time is sufficient.



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3. However, considering the fact that the secured asset is a residential house belonging to the petitioner, we feel that the petitioner should be given an opportunity to liquidate the entire loan.

4. Learned Standing Counsel appearing for the respondent – Bank would submit that the amount due as on 03.03.2023 is Rs.11,84,164/-.

5. Considering the fact that the sale is to be held on 23.03.2023, the writ petition is disposed of with the following directions:

- (i) The petitioner shall pay a sum of Rs.4,00,000/- (Rupees four lakhs only) to the respondent – Bank, on or before 21.03.2023.
- (ii) On such payment, the respondent – Bank shall defer the auction proceedings.
- (iii) The balance amount shall be paid by the petitioner in four equated monthly installments commencing from April, 2023. The monthly instalments shall be paid on or before 20th of every succeeding month.



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- (iv) The interest payable for the interregnum period and the cost of the sale shall be paid by the petitioner along with the last installment.
- (v) The respondent – Bank can proceed further, if there is a default on the part of the petitioner in payment of two monthly installments.

No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

14.03.2023

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

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