



W.P.(MD) No.6843 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2023

CORAM:

**THE HON'BLE MR.R.SUBRAMANIAN
and
THE HON'BLE Mrs.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.6843 of 2023
and WMP(MD) No.6397 of 2023**

Manikandan

... Petitioner

-VS-

1.The Authorized Officer,
PNB Housing Finance Limited
3rd Floor, Prestige Emerald Building,
Lavelle Road
Bangalore 560 001.

2.PNB Housing Finance Limited,
Noble Centre, 1st Floor,
Near Lakshmi Mills,
Coimbatore

3.The Authorised Officer,
PNB Housing Finance Limited,
No.48 Nandhini Building
3rd Floor, Bye Pass Road
Madurai 625 010.

... Respondents



W.P.(MD) No.6843 of 2023

WEB COPY

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned E-auction sale notice Ref.No.PNBHFL/PSN/ROTN/FEB/FY. 2023-24/01, dated 22.02.2023 issued by the 1st respondent herein in under Rule 8(5) read with proviso to Rule 8 clause (6) of the Security Interest (Endorcement) Rules, 2002 and quash the same as illegal and consequently direct the respondents not to conduct the e-auction on 29.03.2023.

For Petitioner : Ms.A.Banumathi
For Respondents : Mr.I.Suthakaran

ORDER

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

The fact that the earlier sale notice has been challenged in SA No.81/2023 before the Debts Recovery Tribunal and pendency of the same is admitted. It is also admitted that the conditional order dated 18.02.2022 made in SA No.81/2022 has been complied with and the Securitization Application is pending before the Debts Recovery Tribunal. Though the Debts Recovery Tribunal has granted only stay of confirmation of the sale, we do not think that they would permit the bank to issue a fresh sale notice and deal with the property of the debtor, when the SARFAESI application is pending and there is an interim order.



W.P.(MD) No.6843 of 2023

WEB COPY

2. The learned counsel for the Bank would submit that the bank has not proceeded with the intended sale as called for in the impugned proceedings dated 22.02.2023. The learned counsel for the bank would submit that the bank would await the result in the proceedings before the Debts Recovery Tribunal, before launching upon further recovery proceedings. The learned counsel would further submit that the amount due now is Rs.4,50,000/- to clear the NPA.

3. Learned counsel for the petitioner would submit that since the bank sealed the premises, he is unable to carry on his business and he would submit that if the seal is opened and the petitioner is put in possession of the property, he would carry on his business and liquidate the loan. We find that the said request is reasonable. Hence, there will be a direction to the bank to de-seal the premises upon the petitioner paying a sum of Rs.2,00,000/- (Rupees two lakhs only) within two months from today. The petitioner shall pay the remaining amount within a period of three months from the date on which the petitioner is put in possession of the property. The petitioner shall also pay the regular EMIs commencing from August, 2023. If the petitioner fails to pay the remaining of Rs.2 lakhs within two



W.P.(MD) No.6843 of 2023

months, the bank will be at liberty to reseal the premises without reference to this Court or the Chief Judicial Magistrate Court.

4. With the above direction, the writ Petition is disposed of. No costs. consequently connected Miscellaneous Petition is closed.

[R.S.M, J.] [L.V.G, J.]
28.06.2023

NCC : Yes / No
Index : Yes / No

RR



WEB COPY



W.P.(MD) No.6843 of 2023

R.SUBRAMANIAN, J.
AND
L.VICTORIA GOWRI, J.

RR

W.P.(MD)No.6843 of 2023

28.06.2023