



W.P.(MD)No.8876 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.07.2023

CORAM

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.(MD)No.8876 of 2023

and W.M.P. (MD) No.8095 of 2023

D.Karunakaran

... Petitioner

Vs.

1.The Deputy General Manager,
CANARA BANK,
Regional Office, Palani Road,
Dindigul.

2.The Manager,
Canara Bank, Kulathoor Branch,
Dindigul.

3.The Authorised Officer,
Canara Bank, Palani Road,
Dindigul.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the 2nd Respondent to consider the petitioner's request on 24.03.2023 and receive the entire loan amount together with interest and any other charges incurred by the bank as full and final settlement in order to redeem the two loan accounts bearing (i)



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Housing Loan No.1583619018398 - Rs.1,69,173.60/- (paid already), (ii) MSME Loan No.1583768000207 - Rs.5,72,622.12/-, (iii) MSME Loan No.1583768000437 - Rs.4,80,201.95/-, (iv) ODMSME Loan No. 1583261000018 - Rs.3,56,437/- and thereupon to release the petitioner's property situated at No.3, 3K Green Garden, Chettinayakanpatti Village, Chennamanayakanpatti, Collectorate Post, Dindigul by handing over all the title documents and other documents.

For Petitioner : Mr.V.R.Venkatesan

For Respondents : Mr.P.Pethu Rajesh

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

The Writ Petition is filed for issuance of a Writ of Mandamus, to direct the 2nd Respondent to consider the petitioner's request on 24.03.2023 and receive the entire loan amount together with interest and any other charges incurred by the bank as full and final settlement in order to redeem the two loan accounts bearing (i) Housing Loan No. 1583619018398 - Rs.1,69,173.60/- (paid already), (ii) MSME Loan No. 1583768000207 - Rs.5,72,622.12/-, (iii) MSME Loan No. 1583768000437 - Rs.4,80,201.95/-, (iv) ODMSME Loan No. 1583261000018 - Rs.3,56,437/- and thereupon to release the petitioner's



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property situated at No.3, 3K Green Garden, Chettinayakkanpatti Village, Chennamanayakkanpatti, Collectorate Post, Dindigul by handing over all the title documents and other documents.

2. The petitioner earlier filed W.P.(MD) No.1017 of 2023, challenging the sale notice dated 19.12.2022. Though this Court passed a conditional order permitting the petitioner to pay the remaining outstanding amount in five consecutive equal monthly instalments, the petitioner has not complied with the said direction. Further, this Court while entertaining the Writ Petition, based on the representation of the petitioner's counsel, directed the petitioner to produce a Demand Draft for the entire amount as specified by the learned Standing Counsel for the respondent bank on 26.04.2023.

3. It is admitted that a sum of Rs.18,95,000/- is payable as on 25.04.2023. Though this Court has specifically posted the matter on 26.04.2023, it is not known why the matter was not listed on that date. The learned counsel for the petitioner is unable to give explanation as to why he could not pay the money before the said date. It is in the said



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circumstances, this Court is unable to accept the cheque, that is now produced before this Court by the petitioner.

4. It is represented by the learned Standing Counsel for the respondent Bank that the sale had taken place and the sale certificate was also issued on 19.05.2023. Since a third party right is created in respect of the mortgaged property, this Court is not inclined to entertain this Writ Petition. Therefore, it is open to the petitioner to avail the alternative remedy as against the sale or the subsequent transaction with all reservations to the petitioner.

5. In view of the above, this Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

[S.S.S.R., J.] [D.B.C., J.]
19.07.2023

NCC : Yes / No
Index : Yes / No
sj



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and

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sj

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