



WMP(MD) No.9830 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Wednesday, the Sixteenth day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

and

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

WMP(MD) No.9830 of 2023

IN

WP(MD) No.3025 of 2023

Na.K.KUMAR

... Petitioner / Petitioner

Vs

1 THE GENERAL MANAGER
STRESSED ASSET MANAGEMENT BRANCH,
UNION BANK OF INDIA,
NO.38 AND 39, WHITES ROAD,
ROYAPETTAH,
CHENNAI- 600 014.

2 THE REGIONAL MANAGER
UNION BANK OF INDIA,
SASTRI ROAD,
UPSTAIRS MAX SHOWROOM,
TRICHIRAPALLI.

3 THE BRANCH MANAGER
UNION BANK OF INDIA,
ERSTWHILE CORPORATION BANK,
NO.9, ROHINI RAINBOW FIRST CROSS (EAST),
THILLAI NAGAR,
TIRUCHIRAPALLI- 620 018.

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4 THE DISTRICT REVENUE OFFICER
TIRUCHIRAPALLI DISTRICT,
TIRUCHIRAPALLI.

5 THE REVENUE DIVISIONAL OFFICER,
TIRUCHIRAPALLI,
TIRUCHIRAPALLI DISTRICT.

6 THE TAHSILDAR
TRICHY WEST TALUK OFFICE,
TIRUCHIRAPALLI.

... Respondents / Respondents

Writ Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to direct the first respondent to pay interest for the registration cost of Rs. 12,55,000/- paid on 29.11.2019 towards registration fee and stamp duty at the Bank rate and direct to pay Rs. 3,50,000/- towards advocate fee.

Prayer in WP(MD). 3025/ 2023 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 3 to refund the bid amount of Rs.1,15,00,000/- paid at time of E-auction held on 21.06.2018 and Rs. 12,55,000/- paid on 29.11.2019 towards registration fee and stamp duty at the rate of 18 percent per annum from the date of receipt of money from the petitioner.

ORDER : This writ miscellaneous petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.SREEDHAR R, Advocate for the petitioner and of



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Mr.V.S.KARTHICK, Standing Counsel on behalf of the Respondents No.1 to 3 and of Mr.J.K.JAYASEELAN, Government Advocate on behalf of the Respondents No.4 to 6, the court made the following order:-

(Order of the Court was made by D.BHARATHA CHAKRAVARTHY, J.)

This petition is filed for a direction directing the first respondent Bank to pay interest towards the registration fee and stamp duty being Rs.12,55,000/- (Rupees Twelve Lakhs and Fifty Five Thousand only) which was paid on 29.11.2019 and was refunded after the order in the writ petition and also for a direction to pay a sum of Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand only) towards advocate fees.

2. The writ petitioner was an auction purchaser of a property which was sold by way of e-auction under the SARFAESI Act and he paid a total sale consideration of Rs.1,15,00,000/- (Rupees One Crore and Fifteen Lakhs only) and after issuance of sale certificate he also registered the same by paying a stamp duty and registration charges of Rs.12,55,000/- (Rupees Twelve Lakhs and Fifty Five Thousand only). However, subsequently, it was found that the property belonged to the National Highways and the mortgagor himself had no title in respect of the same. Therefore, the first respondent Bank recalled the auction and offered to refund the amount. At this juncture, the above writ petition in W.P.(MD)No.3025 of 2023 was filed for refund of the bid amount and the stamp duty and the other expenses along with interest at the rate of 18% per annum. After considering the case of the parties, the



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writ petition was disposed of by passing the following order:

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“...4. Therefore, we grant time till 15.04.2023 to refund the bid amount to the petitioner/auction purchaser along with interest at the Bank rate. Needless to mention that the respondent Bank shall also refund the stamp duty paid for registration of the sale deed and advocate fees to the petitioner.”

3. A perusal of the above order clearly states that the bid amount was directed to be refunded along with interest at the Bank rate. However, the stamp duty and registration charges was ordered to be refunded but no interest was directed to be paid in respect of the same. This Court also has ordered to refund the advocate fees to the petitioner.

4. It is under these circumstances, now it is represented by the learned counsel for the petitioner that eventhough the bid amount has been refunded along with interest, they did not pay any interest on the stamp duty and he had claimed a sum of Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand only) towards advocate fees which is also not paid.

5. The learned Standing Counsel appearing for the respondents 1 to 3 would submit that interest was ordered to be paid only in respect of the bid amount and not in respect of the stamp duty. Therefore, they have refunded the stamp duty as



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such without any interest on the same. As far as the advocate fees is concerned, the learned counsel would submit that the claim on behalf of the petitioner for a sum of Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand only) is on the higher side and the Bank is willing to pay the amount normally paid to the Standing Counsel for the respondents 1 to 3/Bank and he would submit that normally a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) and an expenses of Rs.15,000/- (Rupees Fifteen Thousand only) in all totalling to Rs.40,000/- (Rupees Forty Thousand only) is paid per case.

6. We have considered the rival submissions made on either side and perused the material records of the case.

7. It can be seen from the order extracted above, the first claim of the petitioner regarding the payment of interest on the stamp duty cannot be acceded to as the same has not been ordered by this Court. Secondly, as far as the payment of advocate fees is concerned, the same is to be paid but however the quantum was not specified in the order.

8. After considering the over all facts and circumstances of the case, we feel that it would be just and proper to order the respondents 1 to 3/Bank to pay a sum of Rs.60,000/- (Rupees Sixty Thousand only) to the petitioner. The petitioner shall share the account details with the respondents 1 to 3/Bank within a period of two



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weeks from the date of receipt of a copy of this order. Upon receipt of the account details, the amount shall be credited within one week therefrom.

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9. Accordingly, the Miscellaneous Petition shall stand disposed of.

sd/-
16/08/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

To

1 THE GENERAL MANAGER
STRESSED ASSET MANAGEMENT BRANCH,
UNION BANK OF INDIA,
NO.38 AND 39, WHITES ROAD,
ROYAPETTAH,
CHENNAI- 600 014.

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TIRUCHIRAPALLI.

ORDER
IN
WMP(MD) No.9830 of 2023
IN
WP(MD) No.3025 of 2023
Date :16/08/2023

ED/VR/SAR- (24/08/2023) 7P / 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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