



W.P.(MD) No.10240 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD) No.10240 of 2023
and
W.M.P.(MD)Nos.9094 and 9096 of 2023

A.Bakrudeen Ali Ahamed

... Petitioner

-VS-

1.The Authorized Officer,
Indian Bank,
Manonmaniam Sundaranar University Campus,
Abishekapatti,
Tirunelveli-627 012.

2.Sureshkumar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified mandamus, to call for the records relating to the proceedings of the impugned sale notice dated 06.10.2022 on the file of the first respondent with regard to the petitioner's house property,



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mortgaged in Loan Account No.6643298784 viz., the house bearing Plot No.30, S.No.530/9, Nigilesan Nagar, Meelavittan, Thoothukudi, measuring an extent of 2.296 cents and further directing the first respondent Bank to release the security by receiving a sum of Rs.27,20,000/- towards the said Loan Account from by the petitioner.

For Petitioner : Mr.G.Prabu Rajadurai
for M/s.I.Robert Chandrakumar

For Respondents : Mr.R.Palanivel for Bank

: Mr.M.M.Manivelpandian

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

This Writ Petition is filed for issuance of a Writ of Certiorarified mandamus, to call for the records relating to the proceedings of the impugned sale notice dated 06.10.2022 on the file of the first respondent with regard to the petitioner's house property, mortgaged in Loan Account No.6643298784 viz., the house bearing Plot No.30, S.No.530/9, Nigilesan Nagar, Meelavittan, Thoothukudi, measuring an extent of 2.296 cents and



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further directing the first respondent Bank to release the security by receiving a sum of Rs.27,20,000/- towards the said Loan Account by the petitioner.

2. The petitioner's residential house is brought to sale. It is not in dispute that the property of the petitioner is mortgaged and the petitioner availed loan of Rs.26,75,000/- by executing a loan agreement dated 19.06.2018. When the first respondent issued demand notice on 01.10.2021 and possession notice subsequently, the petitioner appears to have approached the third party, who is also interested in purchasing the property for a sum of Rs.30,00,000/-. When the first respondent published auction notice on 06.10.2022 and fixed the reserve price at Rs.27,00,000/-, the property has been sold in favour of the second respondent for a sum of Rs.27,20,000/-. However, the petitioner has come forward with an offer to pay a sum of Rs.30,00,000/- to retain his property. But the first respondent refused to accept the sale. This Court may have no difficulty in permitting the petitioner to deposit a sum of Rs.30,00,000/- to set aside the same. Though the sale is confirmed, the



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sale certificate is not issued in favour of the second respondent.

Therefore, the petitioner who remitted a sum of Rs.27,20,000/- and agreed to pay a further sum of Rs.3,00,000/- is entitled to seek prayer to set aside the sale. However, this Court cannot countenance the argument that the mortgage as such will stand redeemed by making the payment of Rs.30,00,000/-. The petitioner still has to pay the balance if any to the bank and his liability cannot come to an end by paying part of the amount.

3. However, having regard to the peculiar circumstances and applying the settled position of law, this Court is of the view that the petitioner should be given liberty to approach the first respondent Bank for a concession or for waiver of interest and any other settlement with the respondent Bank which shall independently consider with due regard to RBI guidelines. On payment of the balance of Rs.3,00,000/- along with the representation, the first respondent Bank is directed to consider the representation of the petitioner within a period of two weeks from the date of receipt of a copy of this order. The first respondent bank shall pay a sum of Rs.27,20,000/- along with interest at 9% to the second respondent



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within a period of six weeks therefrom. It is also open to the first respondent to collect the interest liability by debiting in the loan amount. Since substantial amount has been paid by the third party, the petitioner may also take the third party along with him to the bank so that his interest also will be protected.

4. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.]

[D.B.C., J.]

28.07.2023

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

- 1.The District Collector,
Office of the District Collector,
Ramanathapuram District.
- 2.The District Revenue Officer,
Office of the District Revenue Officer,



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3.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

4.The Village Administrative Officer,
Office of the Village Administrative Officer,
Karan Village,
Ramanathapuram District.

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