



W.P.(MD) No.10429 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2023

CORAM:

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

**W.P.(MD) No.10429 of 2023
and
W.M.P.(MD) No.9246 of 2023**

R.Jayakumar

... Petitioner

-VS-

1.The Authorised Officer
Indian Overseas Bank
Regional Office
552/2, M.S.Road
Vettoornimadam
Nagercoil, Kanyakumari District

2.The Branch Manager
Indian Overseas Bank
Eraniel Branch
1-101E, Colachel Road
Monday Market-629 802
Kanyakumari District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the impugned auction sale notice issued by the first respondent under Rule 8(6) and 9(1) of Security Interest (Enforcement) Rules, 2002, dated 23.03.2023 and to quash the same as illegal and consequently directing the second respondent Bank to consider the petitioner's request for regularizing the loan account.

For Petitioner : Mr.D.Srinivasaragavan

For Respondents : Mr.N.Dilip Kumar

ORDER

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

In view of the fact that the Debts Recovery Tribunal, Madurai, is not manned, we are entertaining this writ petition.

2. Mr.N.Dilip Kumar, learned counsel, takes notice for the respondent – Bank.

3. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.



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4. The sale notice, dated 23.03.2023, issued by the respondent – Bank, under Rule 8(6) and 9(1) of the Security Interest (Enforcement) Rules, 2002, is under challenge in this writ petition.

5. Learned counsel for the petitioner would submit that the petitioner will be in a position to liquidate the entire debt, if sometime is granted to him.

6. Considering the facts and circumstances, we are of the opinion that the petitioner should be given sometime to liquidate the debt. Hence, the writ petition is disposed of with the following directions:

- (i) The respondent – Bank shall conduct the sale, but, it shall not confirm the sale, if the petitioner pays a sum of Rs.5,61,500/- (Rupees five lakhs sixty one thousand and five hundred only) to the respondent – Bank, on or before 26.05.2023.
- (ii) The balance amount of Rs.15,00,000/- (Rupees fifteen lakhs only) shall be paid by the petitioner in six equated monthly installments commencing from



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June, 2023. The monthly instalments shall be paid on or before 26th of every succeeding month.

(iii) The interest payable for the interregnum period and the cost of the sale shall be paid along with the last installment.

(iv) If there is a default in payment as directed above, the respondent – Bank can proceed with the sale.

No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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and
L.VICTORIA GOWRI, J.

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