



W.P.(MD) No.12125 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD) No.12125 of 2022
and W.M.P.(MD)No.8622 of 2022

P.Maniraj

... Petitioner

Vs.

1.The Authorized Officer,
Indian Bank,
No.92N, Devarpuram Road,
Melur Branch,
Thoothukudi.

2.The Manager,
Indian Bank,
Melur Branch,
Thoothukudi.



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WEB COURT

- 3.The Sub Registrar,
Keezhur Sub Registrar Office,
Thoothukudi District.
- 4.The Sub Registrar,
Murapadu Sub Registrar Office,
Thoothukudi District.
- 5.The Inspector of Police,
District Crime Branch,
Thoothukudi District.
- 6.R.Rajan
- 7.S.Murugananth
- 8.T.Karuppasamy
[Respondents 3 to 8 are impleaded vide
Court order dated 11.10.2022 in
W.M.P.(MD)No.14461 of 2022]

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondent Bank from issuing sale certificate to any person in regard to the properties mortgaged by the petitioner in Loan Account No.878475908 on the file of the 2nd respondent Bank namely the property in Old S.No.6/6, New S.No.6/6B, Mappillaiyoorani Village, Thoothukudi District measuring to an extent of 54 cents and the property in UDR S.No.648/2A1 measuring to an extent of 1 acre 70 cents belonging to the petitioner.



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For Petitioner : Mr.K.Jeyamohan

For Respondents : Mr.S.Suresh for
M/s.Aiyar & Dolia for R1 & R2
Mr.R.Shanmugavel,
Addl. Government Pleader for R3 & R4
Mr.S.Manikandan,
Government Advocate for R5
Mr.Mohammed Imran for R7

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for issuance of a Writ of Mandamus, forbearing the respondents Bank from issuing sale certificate to any person with regard to the properties mortgaged by the petitioner in Loan Account No. 878475908 on the file of the 2nd respondent Bank, namely, the property in Old S.No.6/6, New S.No.6/6B, Mappillaiyoorani Village, Thoothukudi District measuring to an extent of 54 cents and the property in UDR S.No.648/2A1 measuring to an extent of 1 acre 70 cents belonging to the petitioner.



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2. The petitioner has availed overdraft facility from the second respondent bank to the tune of Rs.50,00,000/-, by depositing the title deeds of his property and the property of one A.Mohanraj, who stood as Guarantor. Since the said Mohanraj died, the petitioner after obtaining consent from the respondent bank has purchased the property of the said Mohanraj from his legal heirs. Therefore, the petitioner has become absolute owner of the property of the said Mohanraj. Due to COVID 19 Pandemic, the petitioner was not able to repay the said amount. Hence, the loan account of the petitioner has been declared as NPA. Thereafter, the respondents bank has issued a demand notice on 09.07.2021. Thereafter, without issuing any possession notice, the respondents bank has brought the properties of the petitioner for auction and sold the same to third parties. Hence, the petitioner has filed this Writ Petition.

3. The respondents bank has filed a counter affidavit denying the allegations made by the petitioner. It is stated that in the counter affidavit that the petitioner has availed a loan for sum of Rs.50 lakhs and Rs.14.13 lakhs by mortgaging the title deeds of the properties of petitioner as well as one



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Mohanraj. After the death of the said Mohanraj, the legal heir of Mohanraj sold the mortgage property to the petitioner, without the consent of the bank, on 20.05.2016. It is further stated that as there was no repayment of the amount to the bank, the respondents bank took possession of the property on 10.11.2021 and brought the properties for sale on 10.05.2022. The bank fixed the upset price for the property after getting the valuation by the panel engineer of the bank. It is further stated in the counter affidavit that the property of Mohanraj, which was purchased by the petitioner, was sold for a sum of Rs.45,10,000/- to one S.Murugananth in the auction sale conducted on 10.05.2022 and sale certificate was also issued in favour of him. The 2nd item of the property was also sold to one Rajan and sale certificate was also issued in favour of him. Therefore, the prayer sought for by the petitioner has become infructuous.

4. We have heard the submissions made by both sides and perused the materials available on records.



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WEB COPY 5. On a perusal of the records, it is seen that there is no material to show that the petitioner had obtained consent from the respondents bank to purchase the property of Mohanraj from his legal heirs. Further, in respect of the properties in question, sale certificates have also been issued to the auction purchasers and therefore, the prayer sought for by the petitioner cannot be entertained and the same is liable to be rejected.

6. Accordingly, this Writ Petition is dismissed. It is open to the petitioner to seek his remedy before the appropriate forum, if so advised. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [L.V.G., J.]
08.02.2023

NCC : Yes / No
Index : Yes / No
vsm



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