



W.P.(MD) No.11761 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2023

CORAM:

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

**W.P.(MD) No.11761 of 2023
and
W.M.P(MD)Nos.10185 and 10186 of 2023**

S.Umadevi

: Petitioner

-vs-

The Authorised Officer,
Cholamandalam Investments and Finance Company Limited,
Dare House, No.2, N.S.C.Bose Road,
Parrys, Chennai 600 001.

: Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned e-auction sale notice issued by the respondent herein dated 03.05.2023 and to quash the same as illegal and unconstitutional and consequently forbearing the respondent from in any way taking physical possession of her secured assets comprised in S.No.125/1A1 of an extent of 1 Acre 60 cents and S.No.



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126/2 of an extent of 7 cents totally 1 acre 67 cents situated at Thattankulam Village, Palani Taluk, Dindigul District.

For Petitioner : Mr.C.Gangai Amaran

For Respondent : Mr.P.Pethu Rajesh

ORDER

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

The petitioner has challenged the sale notice, dated 03.05.2023, issued by the respondent, before this Court.

2. Earlier, the very same petitioner has challenged the possession notice, dated 28.05.2022, issued under Section 13(4) r/w Rule 8(1) of the SARFAESI Act, 2002. This Court granted interim stay of all further proceedings pursuant to the notice, dated 28.05.2022 on condition that the petitioner pays a sum of Rs.40,00,000/- on four monthly installments. However, the conditional order was not complied with. Therefore, that prompted the respondents Bank to proceed further and issued sale notice that is impugned in the present writ petition. Since the Bank has proceeded further on



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account of non-compliance of the earlier order passed by this Court, while granting interim stay of all further proceedings in W.M.P. (MD)No.9858 of 2022 in W.P.(MD)No.13855 of 2022 and the petitioner having an efficacious alternative remedy by way of approaching the Debts Recovery Tribunal, this writ petition cannot be entertained. Despite this Court had shown indulgence earlier, by granting interim order, the petitioner has not shown his *bona fide*.

3. In such circumstances, this Court has no other option except to dismiss this writ petition, however, with liberty to the petitioner to approach the Debts Recovery Tribunal challenging the same notice.

4. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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

[D.B.C., J.]

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

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