



W.P.(MD) No.12110 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.05.2023

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE Mrs.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.12110 of 2023
and WMP(MD) No.10378 of 2023**

S.Vivekanandan

... Petitioner

-VS-

1.The Authorised Officer,
Indian Overseas Bank
Regional Office, Madurai,
Plot No.40, 80 Feet Road
Arignar Anna Nagar,
Madurai 625 020.

2.The Branch Manager,
Indian Overseas Bank
Kamarajar Salai Branch
No.198 Kamarajar Salai
Madurai 625 009.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a
Writ of Certiorarified Mandamus to call for the entire records pursuant to the



W.P.(MD) No.12110 of 2023

WEB COPY

impugned order of the 1st respondent bearing No.IOB/RO/SAMD/6/2023-2024 dated 18/04/2023 culminated in the issuance of E.auction sale notice bearing No.IOB/RO/SAMD/6/2023-24 dated 18.04.2023 quash the same and consequently direct the respondents to receive the sum of Rs.18.58 lakhs as per letter dated 11.10.2019 by condoning the delay in payment, close the loan account and return the title deeds pertaining to the mortgaged properties to Mrs.Nagarathinam.

For Petitioner : Ms.Maria Roseline for
M/s.Vast Law Associates
For Respondents : Mr.N.Dilipkumar

ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

Petitioner being the borrower has come to this Court with this writ petition challenging the E-auction sale notice issued by the 1st respondent dated 18.04.2023 and for a direction to the respondents to receive the sum of Rs.15.58 lakhs as per letter dated 11.10.2019 by condoning the delay in payment, close the loan account and return the title deeds pertaining to the mortgaged properties to Mrs.Nagarathinam.



W.P.(MD) No.12110 of 2023

WEB COPY

2. Learned counsel appearing for the petitioner in support of the prayer submitted that though there was a detailed order passed by this Court as early as on 22.10.2018 in WP(MD) No.19345/2018 filed by one Ms.R.Rakku, in view of the pendency of the SLP preferred against the said order dated 22.10.2018 by the said Rakku, the petitioner could not make the payment and equally, the respondents have also could not receive the payment and close the loan account.

3. It is brought to the notice of this Court that the Special Leave Petition was dismissed by the Apex Court thereby confirming the order of this Court dated 22.10.2018 vide order dated 06.05.2022. Hence, the petitioner to show his *bona fide*, has taken out three demand drafts for a sum of Rs.18 lakhs including interest at the rate of 6% on the amount of Rs.15,58,000/-, which has been directed to be paid by the petitioner as per letter dated 11.10.2019. Therefore, on receipt of the said demand drafts, the respondents may be directed to close the loan account and return the title deeds to Mrs.Nagarathinam.



W.P.(MD) No.12110 of 2023

WEB COPY

4. Adding further, it is stated that the petitioner has not caused any delay and therefore, further interest/amount need not be paid, she pleaded.

5. In reply, Mr.N.Dilipkumar, learned counsel for the respondents opposing heavily the above contentions, submitted that as on 11.10.2019, when the letter was issued calling upon the petitioner to pay the entire amount through OTS, it was indicated that a sum of Rs.15,58,000/- should be paid for closing the loan account, since there has been a huge delay, now the petitioner comes forward to pay, when there is no scheme available. Therefore, the outstanding amount of Rs.40 lakhs should be paid, he contended.

6. We find that there was an order dated 22.10.2018 passed by this Court in the writ petition filed by one Rakku, wherein, the petitioner therein had sought for a direction to the respondents to receive the entire loan amount with interest. This Court, finding fault with the petitioner therein, dismissed the said writ petition, since the petitioner therein claimed the status of wife of the deceased, viz., T.RameshKumar. Only during that time, the petitioner was offered OTS. Since OTS could not be fructified, in view of the pendency of the writ petition as



W.P.(MD) No.12110 of 2023

well as the SLP, refusal of extension to the petitioner, in our considered view, cannot be accepted. Now, the petitioner has come forward to make the entire payment. Considering the passage of time, we are of the view that the petitioner can pay a sum of Rs.25 lakhs towards full and final settlement. In any event, less than Rs.25 lakhs, the bank may not be able to accept any offer. If the petitioner comes forward to make payment of Rs.25 lakhs, the bank may consider the same.

7. Accordingly, if Rs.25 lakhs is paid towards full and final settlement, the respondent bank can receive the amount and close the loan account and release the title deeds. The petitioner has taken demand drafts for a sum of Rs.18,00,000/- (Rupees eighteen lakhs only) as stated supra. Learned counsel for the petitioner also submitted that she is prepared to hand over the demand drafts for a sum of Rs.18 lakhs (Rupees eighteen lakhs only) to the learned counsel for the respondents and the balance amount would be paid within two weeks. Therefore, the petitioner is directed to pay the balance amount of Rs.7 lakhs within a period of two weeks from today. On receipt of the said amount, the respondent bank shall release the title deeds to Mrs.Nagarathinam. Needless to mention that if the petitioner makes any default, the respondent bank is at liberty



W.P.(MD) No.12110 of 2023

WEB COPY to proceed in accordance with law.

8. The writ petition is disposed of with the above direction. No costs.
consequently connected Miscellaneous Petition is closed.

NCC : Yes / No

[T.R., A.C.J.] [L.V.G, J.]
18.05.2023

RR



WEB COPY



W.P.(MD) No.12110 of 2023

THE HON'BLE THE ACTING CHIEF JUSTICE
and
L.VICTORIA GOWRI, J.

RR

W.P.(MD)No.12110 of 2023

18.05.2023