



W.P.(MD).No.12604 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.05.2023

CORAM:

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
and
THE HONOURABLE MS.JUSTICE P.T.ASHA**

**W.P.(MD).No.12604 of 2023
and
W.M.P.(MD).Nos.10647 to 10649 of 2023**

Balamurugan

... Petitioner

Vs.

1.The Regional Director,
Reserve Bank of India,
16, Rajaji Salai,
Fort Glacis,
Chennai 600 001.

2.The Authorised Officer,
City Union Bank Limited,
Credit Recovery and Management Department,
“NARAYANA”, Administrative Office,
No.24-B, Gandhi Nagar,
Kumbakonam 612 001.

3.The Branch Manager,
City Union Bank,
Aruppukottai,
Virudhunagar District.

4.Jeyaruby
5.Harun Rasheed
6.K.Ayyarsamy

... Respondents



W.P.(MD).No.12604 of 2023

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the impugned auction sale notice dated 04.05.2023 of the respondents 2 and 3 and quash the same.

For Petitioner : Mr.R.Murugappan

For R2 & R3 : Mr.R.Pandivel

Standing counsel

ORDER

(Order of the Court was made by M.S.RAMESH.J.,)

This is the 7th writ petition filed by the petitioner challenging the proceedings initiated by the respondent Bank under the SARFAESI Act.

2. The last writ petition filed before the co-ordinate Bench of this Court in W.P.(MD).No.4465 of 2023 came to be dismissed on 02.03.2023, by recording the conduct of the petitioner, in the following manner:

“2. The petitioner is a Lorry Driver and borrowed a sum of Rs.15 lakhs and he also paid nearly Rs.20 lakhs with interest to the respondents 2 and 3, however, due to COVID-19 pandemic, he has committed default, as a result of which, his account has been classified as NPA. Thereafter, the second respondent issued notice under Section 13(2) of the SARFAESI Act (in short 'the Act'), on 22.10.2021 followed by the possession notice dated 12.01.2022. Subsequently, a tender cum auction notice dated 07.02.2022 for



W.P.(MD).No.12604 of 2023

which was also disposed on 28.09.2022 by directing the respondents to consider the representation of the petitioner dated 24.09.2022 and the petitioner was given protection by directing the respondents not to take any coercive action till the said representation was considered. However, by stating that the petitioner was not carrying on any business, the question of reconstructing of the loan does not arise, the respondent rejected his case. Challenging the rejection order, the petitioner filed 4th writ petition in WP(MD) No.27482/2022 and again this Court entertained the writ petition thereby directed the petitioner to pay a sum of Rs.3 lakhs on or before 02.01.2023 and the entire remaining outstanding in six equal instalments. However, the petitioner committed defaults. Since the conditional order was not complied with, he is before this Court with this writ petition.

3. When this Court has repeatedly showed so much of diligence considering his poor background, he has not even made use of the same. Therefore, no purpose would be served by accepting the writ petition. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently connected Miscellaneous Petitions are closed. ”

3. The above order has not been disclosed in the affidavit filed in support of the present writ petition. The only ground raised by the petitioner is that he is a lorry driver by profession and due to financial constraint, he is



W.P.(MD).No.12604 of 2023

unable to pay the loan amount and seeks for further indulgence by granting time for repayment of the loan amount. As observed in the earlier order passed by this Court, several opportunities have been extended to the petitioner which he is not availed of.

4. By taking note of the continuous litigation initiated by the petitioner and also on the ground that he has suppressed the earlier order passed by this Court in W.P.(MD).No.4465 of 2023 in the present writ petition, the Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

**[M.S.R.J.] [P.T.A.J.,]
24.05.2023**

akv

To

- 1.The Regional Director,
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16, Rajaji Salai,
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- 2.The Authorised Officer,
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W.P.(MD).No.12604 of 2023

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W.P.(MD).No.12604 of 2023

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W.P.(MD).No.12604 of 2023

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