



W.P.(MD) No.13789 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2023

CORAM:

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

W.P.(MD) No.13789 of 2023

and

W.M.P.(MD) No.11629 of 2023

P.R.Dhamotharan

... Petitioner

-VS-

The Authorised Officer
Tamilnadu Mercantile Bank Limited
Rajayapalayam Branch
Virudhunagar District

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned sale notice issued by the respondent herein in his proceedings in CIN No.L65110TN1921PLC001908, dated 03.06.2023 in respect of secured assets would be sold through E-auction on 23.06.2023 and quash the same and consequently forbearing the respondent from in any manner interfering with the petitioner's peaceful possession and enjoyment of his property.



WEB COPY

W.P.(MD) No.13789 of 2023

For Petitioner : Mr.C.Gangai Amaran

For Respondent : Mr.T.Thevan

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.T.Thevan, 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.

4. The sale notice, dated 03.06.2023, issued by the respondent - Bank, is under challenge in this writ petition.

5. As per the impugned sale notice, the amount due is Rs.6,72,515.18 (Rupees six lakhs seventy two thousand five hundred and fifteen and paise eighteen only) as of 31.05.2023. But, the property, which is



W.P.(MD) No.13789 of 2023

sought to be sold, is valued by the respondent - Bank itself at Rs.1,88,00,000/-. Even the 10% earnest money deposit is above the actual amount due.

6. Learned counsel for the petitioner would submit that if the petitioner is given sometime, he would be able to discharge the debt and save the secured asset.

7. Considering the fact that the amount due is not even above the 10% earnest money deposit and far less than value of the property, which is sought to be sold, we find that the petitioner should be given an opportunity to redeem his property. Hence, the writ petition is disposed of with the following directions:

- (i) The respondent – Bank will not proceed with the sale, if the petitioner pays a sum of Rs.1,72,515/- (Rupees one lakh seventy two thousand five hundred and fifteen only) to the respondent – Bank, on or before 23.06.2023.
- (ii) The balance amount shall be paid by the petitioner in five equated monthly installments commencing



WEB COPY



W.P.(MD) No.13789 of 2023

from July, 2023. The monthly instalments shall be paid on or before 23rd 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.
- (v) It will be open to the petitioner to negotiate the question of penal interest with the respondent – Bank.

No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

13.06.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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W.P.(MD) No.13789 of 2023

R.SUBRAMANIAN, J.
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krk

W.P.(MD) No.13789 of 2023
and
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13.06.2023