



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Special Original Jurisdiction

Wednesday, the Twelfth day of July Two Thousand and Twenty, 2022
PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR
AND

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

WMP(MD). No.12915 of 2023

in

WP(MD) No.7005 of 2022

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1.The Authorized Officer

IDBI Bank Ltd.

Anna Salai Branch,

D.No.115 Anna Salai,

Saidapet, Chennai - 15.

2.IDBI Bank Ltd.,

Rep by its Branch Manager,

Anna Salai Branch,

D.No.115 Anna Salai,

Saidapet,

Chennai - 15.

... Petitioners 1 & 2/Respondents 1 & 2

Vs

1 K. Vallikumari, ...1st Respondent/Writ Petitioner

W/o. Mr.Krishnapillai

Door No. 9/3, Jawahar Street,

Ramanathapuram,

Nagercoil, agastheeswaram Taluk, Kanyakumari District.

2 The AuroMira Bio System KanYakumari Private Ltd.

Rep by its Director,

D.No.5 3rd Floor, Jasmaens Complex,

M.C. Nicholos Road, Chetpet, Chennai -31.

3 Debts Recovery Tribunal - Madurai,

III and IV Floor Kalyani Towers

4/162 Madurai - Melur Road,

(Near Meenakshi Mission Hospital),

Uthangudi Post,

Madurai -625 107.

...Respondents 2 & 3/Respondents 3 & 4

4 P. Balakrishnan,

S/o. Palavesamuthu Nadar,

No.11/13 East Street,

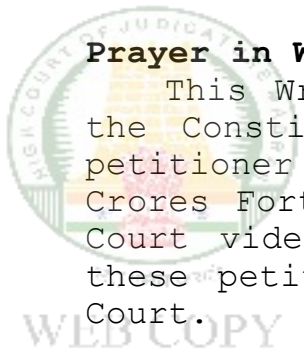
Srirenganarayanapuram Cheetikulam

Radhapuram,

Koodankulam,

Tirunelveli - 627 106.

... Respondent No.4/Respondent No.5



Prayer in WMP(MD) No.12915 of 2023:-

This Writ Miscellaneous petition is filed under Article 226 of the Constitution of India, to direct the 1st respondent / writ petitioner to receive the sum of Rs.5,41,00,000/- (Rupees Five Crores Forty One Lakhs only) as per the directions of this Hon'ble Court vide order dated 21.02.2023, or in the alternative, permit these petitioners to deposit the said amounts before this Hon'ble Court.

Prayer in WP(MD) No.7005 of 2022:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned E-Auction Sale Notice dated 11.03.2022 issued by the 1st Respondent and the subsequent E-Auction Sale conducted on 30.03.2022 and quash the same.

ORDER:-

This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MS.Venithra Srinivasan, Advocate for NVS and Associates for the Petitioner and of Mr.V.Veerapandian for M/s.VAST LAW Associates, for R1 and Mr.R.Rajesh Kumar, Advocate for the fourth Respondent, and for the 2rd and 3th Respondents none appeared either in person or by an Advocate , this Court made the following order:

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

This miscellaneous petition is filed to direct the first respondent / writ petitioner to receive the sum of Rs.5,41,00,000/- (Rupees five crores and forty one lakhs only) as per the directions of this Court vide order dated 21.02.2023 passed in W.P.(MD) No.7005 of 2022 or in the alternative, permit the petitioner - Bank to deposit the said sum before this Court.

2. It is not in dispute that the writ petition filed by the first respondent was ultimately dismissed by this Court on 21.02.2023, after recording the following facts:

"5.At this juncture, the learned counsel for the petitioner stated that the petitioner also filed an appeal before the 4th respondent in S.A.SR.No.2736 of 2022 and the same is also pending for disposal. Therefore, he seeks liberty to raise the grounds before the 4th respondent. It is also brought to the notice of this Court that pursuant to the directions of this Court dated 14.11.2022, the petitioner has deposited a sum of Rs.5.41 Crores to the respondent Bank and the Bank is ready to return the aforesaid amount to the petitioner without

prejudice to the rights of the parties



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concerned.

6. Considering the aforesaid submissions made on either side, we are inclined to direct the respondent Bank to refund the aforesaid amount to the petitioner within a period of four weeks from the date of receipt of a copy of this order. The petitioner is also at liberty to agitate her contentions before the Civil Court as well as before the 4th respondent. It is needless to mention that if the petitioner approaches the respondent Bank, seeking for a copy of the notice issued under Section 13(2) of SARFAESI Act, the respondent Bank shall consider the same and issue a copy of the said notice to the petitioner."

3. Pursuant to the above directions, the petitioner - Bank has filed this miscellaneous petition seeking a direction as stated above, as the first respondent has not come forward to receive the amount.

4. Learned counsel for the first respondent states that the property, which is mortgaged, is in the first respondent's possession and enjoyment and therefore, she has a right to defend her possession and recover the money, which she is entitled to, as the sale consideration is paid to the borrower by the petitioner - Bank. He further states that the first respondent has preferred a special leave petition before the Honourable Supreme Court challenging the order passed by this Court and the same is likely to be taken up for hearing in two weeks.

5. In the above facts and circumstances, this Court is inclined to pass the following orders:

- (i) Subject to the right that may accrue under the special leave petition stated to have been filed by the first respondent, she is directed to receive Rs.5,41,00,000/- (Rupees five crores and forty one lakhs only) as per the directions of this Court vide order dated 21.02.2023 passed in W.P.(MD) No.7005 of 2022, within one week from today.
- (ii) The first respondent shall furnish her Bank Account details to the petitioner - Bank so as to enable them to deposit the said amount in her Bank Account.
- (iii) In case the first respondent fails to furnish her Bank Account details, it is open to the petitioner - Bank to deposit the said sum before the Registrar Judicial, Madurai Bench of Madras High Court, Madurai, to the credit of W.P.(MD) No.7005 of 2022.



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6. Accordingly, this miscellaneous petition is ordered



Sd/-

Assistant Registrar(CS-I)

// True Copy //

/07/2023

Sub Assistant Registrar(CS)

TO

The Presiding Officer,
Debts Recovery Tribunal - Madurai,
III and IV Floor Kalyani Towers
4/162 Madurai - Melur Road,
(Near Meenakshi Mission Hospital),
Uthangudi Post, Madurai -625 107.

copy to:

1. The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.
2. The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court,
Madurai.,

ORDER DATED : 12/07/2023

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ORDER

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WMP(MD) . No.12915 of 2023
in

WP(MD) No.7005 of 2022
Giving direction and etc.
as stated within.

KB(17.07.2023) 4P 4C