



W.P.(MD) No.15550 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2023

CORAM:

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

W.P.(MD) No.15550 of 2023
and
W.M.P.(MD)No.13072 of 2023

Dhatchinamoorthy

... Petitioner

-VS-

1.The Authorized Officer,
Development Credit Bank,
No.141A, 142, First Floor,
Alagarkovil Road,
Thallakulam, Madurai.

2.The Branch Manager,
Development Credit Bank,
No.141A, 142, First Floor,
Alagarkovil Road,
Thallakulam, Madurai.

3.Paramahamsan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a writ of Certiorari, to call for the records pertaining to the



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impugned 3-Auction sale notice dated 14.06.2023 issued by the first respondent and quash the same.

For Petitioner : Ms.D.Saranya

For Respondents : Mr.A.Anbalagan for R1 & R2

ORDER

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

This Writ Petition is filed by the purchaser of mortgaged property as if he is not aware of the property being mortgaged with the respondent Bank. The petitioner states that he purchased the property from the third respondent by a registered sale deed without knowing the fact that the properties were already mortgaged and proceedings were initiated under the SARFAESI Act.

2. Stating that the property is a dwelling house, the petitioner has approached this Court, as an innocent purchaser, who is willing to clear the mortgage, if time is granted. This Court while entertaining this writ petition passed a conditional order directing the petitioner to pay a sum



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of Rs.20,00,000/- (Rupees Twenty Lakhs only) on or before 28.07.2023.

Even today, the petitioner has not come forward with any payment.

3. However, the learned counsel appearing for the petitioner states that the petitioner is in a position to make further payment, if one month time is given. This Court has already given indulgence and the petitioner has not shown his *bona fides*.

4. In the said circumstances, this Court, taking note of the fact that the petitioner can be treated as one, who has stepped into the shoes of borrower, is entitled to approach the Bank for making payment and close the mortgage. Since the petitioner has an alternative remedy by way of approaching the Debts Recovery Tribunal, this Court is not entitled to entertain the writ petition.

5. Accordingly, the Writ Petition is dismissed with liberty to the petitioner to approach the Bank as a representative in interest of the borrower. When a representation is submitted by the petitioner seeking for time for payment or for settlement of dues either under OTS scheme



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or for availing any concession, it is for the respondents Bank to consider. When the representation is submitted by the petitioner with the proposal to settle the amount or for availing other benefits or concession, the respondents Bank shall consider the same within a period of four weeks from the date of receipt of such representation. Till such time, the representation of the petitioner is considered, the sale shall not be confirmed. Though it is represented that the sale had taken place, the purchaser has only deposited 25% of the amount and the sale is not yet confirmed. Hence, the Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is 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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