



W.P.(MD) No.17919 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2023

CORAM:

**THE HON'BLE MR.SANJAY V.GANGAPURWALA,
CHIEF JUSTICE**

and

THE HON'BLE MR.JUSTICE P.VADAMALAI

**W.P.(MD) No.17919 of 2023
and WMP(MD) No.14966 of 2023
and CRP(MD) No.1872 of 2023
and CMP(MD) NO.9402 of 2023**

WP(MD) No.17919/2023

U.Maruthupandian

... Petitioner

-VS-

The Authorised Officer
Tamilnad Mercantile Bank Ltd.,
Madurai Tallakulam Branch
111-112 Alagarkovil Road
Tallakulam
Madurai 625 002.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records relating to the impugned proceedings dated 15.07.2023 issued by the respondent and quash the same.



W.P.(MD) No.17919 of 2023

WEB COPY

For Petitioner : Mr.V.Meenakashi Sundaram
For Respondent : Mr.ARM.Ramesh

CRP(MD) No.1872/2023

U.Maruthupandian

... Petitioner

-VS-

The Authorised Officer
Tamilnad Mercantile Bank Ltd.,
Madurai Tallakulam Branch
111-112 Alagarkovil Road
Tallakulam
Madurai 625 002.

... Respondent

PRAYER: Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 14.07.2023 made in I.A.No.1233 of 2023 in SA No. 253 of 2023 on the file of the Debts Recovery Tribunal, Madurai.

For Petitioner : Mr.V.Meenakashi Sundaram
For Respondent : Mr.ARM.Ramesh

COMMON ORDER

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

We have heard Mr.V.Meenakshi Sundaram, learned counsel for the petitioner and Mr.ARM.Ramesh, learned counsel for the respondent.



W.P.(MD) No.17919 of 2023

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3. The earlier sale notice was challenged by filing W.P.(MD) No. 9901/2023. Under order dated 27.04.2023, this Court passed a conditional order, which reads thus:

“7.Considering the facts and circumstances, we are of the opinion that the petitioner should be given sometime to liquidate the debt. Hence, the writ petition is disposed of with the following directions:

(i) The respondent – Bank shall not proceed with the sale, if the petitioner pays a sum of Rs.10,00,000/- (Rupees ten lakhs only) to the respondent – Bank on or before 04.05.2023, ie., the date of sale.

(ii) The balance amount of Rs.83,56,000/- (Rupees eighty three lakhs and fifty six thousand only) shall be paid by the petitioner in six equated monthly instalments commencing from June, 2023. The monthly instalments shall be paid on or before 04th of every succeeding month.

(iii) The interest that accrues in the interregnum 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.”



W.P.(MD) No.17919 of 2023

WEB COPY

4. It appears that the petitioner deposited Rs.10 lakhs, on or before 04.05.2023, however, failed to deposit the balance amount as directed under the said order. The respondent bank initiated fresh sale proceedings and on 14.07.2023, the impugned sale took place. The petitioner challenged the said auction sale by filing Securitisation application before the Debts Recovery Tribunal. The Debts Recovery Tribunal passed an order thereby refusing the stay petition. The petitioner has approached this Court.

5. The petitioner had also filed an application seeking extension of time to deposit the amount, as directed by this Court, under order dated 27.04.2023. However, the same has been withdrawn. This fact is admitted by the petitioner.

6. In the light of the above, there is no question of considering the application for extension, as the same is withdrawn. The order passed by the Debts Recovery Tribunal refusing the stay can be challenged before the Debts Recovery Appellate Tribunal.



W.P.(MD) No.17919 of 2023

WEB COPY

7. In view of that, we are not inclined to entertain the present writ petition and the civil revision petition. The writ petition and the civil revision petition stand disposed of with liberty to the petitioner to avail the alternate remedy as permissible under law, in addition, all the contentions of the respective parties are kept open. The Debts Recovery Appellate Tribunal may consider the request of the petitioner for hearing the stay petition expeditiously on its own merits. The interim stay already granted by this Court and operating today shall continue for a period of ten days, so as to enable the petitioner to avail the appropriate remedy. Needless to state that on lapse of ten days, the interim protection granted by this Court shall come to an end. However, there is no order as to costs. consequently connected Miscellaneous Petitions are closed.

[S.V.G., CJ.]

[P.V.M, J.]

28.08.2023

NCC : Yes / No

Index : Yes / No

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WEB COPY



W.P.(MD) No.17919 of 2023

THE HON'BLE THE CHIEF JUSTICE
and
P.VADAMALAI, J.

RR

W.P.(MD)No.17919 of 2023
and CRP(MD) No.1872 of 2023

28.08.2023