



W.P(MD)No.20710 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.20710 of 2022
and W.M.P(MD)Nos.15014 & 15023 of 2022**

K.Shanthi

... Petitioner

vs.

1.The Authorised Officer,
Asset Recovery Management Branch,
1st Floor, Muthaiah Towers, Williams Road,
Trichy – 620 001.

2.M.Kaja Mohideen

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned auction conducted by the first respondent dated 16.08.2022 vide proceedings Ref: CB ARM: TRY: SN KMS Fabricating 1222261100033 & 1222766000023/2022/RV quash the same insofar as relating to the E-Auction of the first schedule property concerned under to an extent of 1421 sq. feet Survey Nos.251 & 255 situated in Kottapattu Village, Tiruchirapalli District and consequently direct the respondent to conduct the re-auction for the first schedule property concerned under Survey Nos.251 & 255 situated in Kottapattu Village, Tiruchirappalli District.

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For Petitioner : Mr.F.Deepak
For R – 1 : Mr.C.Deepak
For R – 2 : Mr.K.S.Kathiravan

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The prayer in this Writ Petition is seeking for issuance of a Writ of Certiorarified Mandamus, to quash the impugned auction conducted by the first respondent dated 16.08.2022 insofar as relating to the E-Auction of the first schedule property concerned to an extent of 1421 sq. feet Survey Nos.251 & 255 situated in Kottapattu Village, Tiruchirapalli District and consequently directing the first respondent to conduct the re-auction for the first schedule property concerned under Survey Nos.251 & 255 situated in Kottapattu Village, Tiruchirappalli District.

2. The petitioner has filed the present Writ Petition challenging the E-auction conducted in respect of property No.1. According to the petitioner, the first respondent Bank has given a separate login ID and password for participating in the tender, in which, the petitioner participated in the E-auction conducted by the first respondent Bank. Simultaneously,



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the tender auction was conducted for all the properties and with regard to property No.2, the petitioner was declared as a successful bidder. With regard to property No.1, the reserve price fixed by the first respondent Bank at the time of auction is Rs.62 lakhs and the last acceptable bid price was Rs.68,80,000/-. At that time, her account was logged out from the bidding hall and the petitioner made several attempts to log in to the bidding hall after repeated attempts only, the petitioner was able to log in after 8 minutes and by such time, the first respondent Bank has confirmed another auction purchaser for a sum of Rs.69,10,000/-. With regard to the first property, the bid amount continued only 21 times and therefore, it shows the petitioner's bonafide intention to purchase the said property. Therefore, the petitioner has filed the present Writ Petition due to the aforesaid reasons. The petitioner has also prayed for re-auction of the property No.1 and she also made a complaint, dated 29.08.2022 to the first respondent. Since no action has taken place, the petitioner has filed the present Writ Petition.

3. The first respondent Bank filed a counter-affidavit stating that the petitioner is not a borrower. The petitioner was only a successful bidder in respect of property No.2, whereas, the petitioner was allotted property



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No.1, but she has not proceeded with further bidding. The first respondent Bank has conducted the E-auction after following the due procedure as contemplated under the Act and confirmed the bid in favour of the highest bidder for a sum of Rs.69,10,000/-. The sale confirmation was also given to the second respondent, who is the successful bidder and a sale certificate has also been issued in his favour. At this stage, the petitioner filed this Writ Petition before this Court based on the complaint, dated 29.08.2022 stating that no action was taken. Further, the learned counsel appearing for the first respondent Bank submitted that when the petitioner made a representation on 22.08.2022, she had not whispered about any irregularities or logged out during the auction process in respect of property No.1, whereas, she made a complaint on 29.08.2022. Therefore, the said allegation of the petitioner is incorrect and the same is liable to be rejected.

4. On coming to the facts of the case, the learned counsel appearing for the second respondent also reiterated the stand taken by the first respondent and submitted that the second respondent has invested a huge amount and the sale certificate has been issued and till now, he is not in a position to enjoy the fruitfulness of the aforesaid property purchased by the second respondent.



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5. We have gone through the entire contentions of the petitioner as well as the respondents and also perused the materials available on record.

6. There is no dispute regarding the aforesaid fact that the e-auction was conducted in respect of property No.1 and the petitioner being an auction purchaser, has also participated in properties Nos.1 and 2 and was a successful bidder in respect of property No.2 and she was not a successful bidder in respect of property No.1. The allegation of the petitioner is that she has participated in the E-auction in respect of property No.1 and due to some logged out from the bidding hall, she was logged out and during the process, she tried for 21 times, but she could not succeed. It is an admitted fact that the petitioner submitted a letter on 22.08.2022 stating that she was the successful bidder in respect of property No.2 and she has not made any allegation in the said representation as against the first property. Suddenly on 29.08.2022, she made a complaint stating the aforesaid allegation that during the tender process she was logged out and she made an attempt to log in.



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7. If any complaint on the date of auction, namely on 16.08.2022, the petitioner would have immediately made a complaint before the first respondent alleging that she was not in a position to participate in the tender process, but she made a complaint only on 29.08.2022. Therefore, there is no bona fide on the part of the petitioner seeking the aforesaid prayer for conducting a re-auction in respect of property No.1 is concerned.

8. The fact of the writ petitioner is totally unaccepted and there is no bonafide reason to believe the petitioner's version for conducting re-auction of the property, that too, after the sale certificate has been issued in the name of the second respondent. Further, it is seen from the typed-set of papers, the copy of the history sheet of the bidding hall in respect of property No.1, the petitioner was logged in up to 02.00 p.m., whereas the copy of the history sheet of the bidding hall in respect of property No.2, the petitioner was logged in upto 04.15 p.m. Therefore, we are of the view that the intention of the petitioner is not bonafide. Hence, it requires imposing heavy costs to the petitioner for unnecessarily dragging on taking possession of the property by the second respondent and unnecessarily dragging on the litigation and filing the present Writ Petition



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before this Court and obtaining the interim order. Hence, the petitioner is directed to pay a cost of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the District Siddha Medical Officer CCRI Periyakulam [Account No. 10767823177, IFSC Code No.SBIN0000898, MICR Code No.625002601, Branch – SBI Periyakulam] within a period of two weeks from the date of receipt of a copy of this order.

9. Accordingly, this Writ Petition is dismissed with cost of Rs.25,000/- payable by the petitioner as stated above. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
31.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

The Authorised Officer,
Asset Recovery Management Branch,
1st Floor, Muthaiah Towers,
Williams Road,
Trichy – 620 001.

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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
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DATED : 31.01.2023