



W.P.(MD) No.18520 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2023

CORAM:

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

and

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

**W.P.(MD) No.18520 of 2023
and WMP(MD) No.15357 of 2023**

K.Raman

... Petitioner

-VS-

1.The Authorized Officer,
Axis Bank Limited,
Legal Collection,
No.31 2nd Floor, South Mada Street,
Mylapore, Chennai 600 004.

2.The Branch Manager,
Axis Bank Limited,
Sreepuram
Tirunelveli Junction Branch
Tirunelveli

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to



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the impugned order dated 13.06.2023 passed by the 1st respondent and quash the same as illegal and consequently direct the respondents to return back the earnest money a sum of Rs.6,00,000/- was deposited by the petitioner at the time of first e-auction scheduled on 27.02.2023 by considering the petitioner's representation dated 20.07.2023 within a stipulated period as framed by this Court.

For Petitioner : Mr.C.Saravanakumar

For Respondents : Mr.P.Pethu Rajesh

ORDER

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

We have heard Mr.C.Saravanakumar, learned counsel for the petitioner and the learned counsel for the respondent Bank.

2. The writ petition is filed for refund of the earnest money deposit paid by the petitioner for participating in the auction sale. The petitioner had paid earnest money deposit of Rs.6,00,000/-. The petitioner participated in the bid. The petitioner did not deposit 25% amount on the same day or the next day. The bid was required to be cancelled.



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3. The learned counsel for the petitioner submits that under Rule 9(5) of the Securitisation Interest (Enforcement) Rules, 2002, the petitioner does not have right to forfeit the earnest money deposit.

4. We have heard the learned counsel for the respondent Bank also.

5. At the first blush, we thought that the case of the petitioner needs to be considered. However, it is pointed out that after the petitioner failed to deposit 25% of the amount on the same day or the day next, the sale was required to be cancelled and the bank had to undertake the fresh auction proceedings and in the fresh auction proceedings, the petitioner also participated and after having found that the petitioner is not the highest bidder, filed the present writ petition for refund of the earnest money from the first sale.

6. The petitioner could have sought for refund of the earnest amount immediately at that time only. However, took chance in the fresh auction proceedings and after noting that he would not be the successful bidder, as he is



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WEB COPY not the highest bidder, chose to file the present writ petition.

7. The writ jurisdiction under Article 226 of the Constitution of India is an extra ordinary and equitable jurisdiction. The conduct of the party also is relevant to be considered. Moreover, there was also a clause in the tender regarding forfeiture.

8. As we do not find the conduct of the petitioner to be *bona fide*, we are not inclined to entertain this writ petition. The writ petition as such stands disposed of. However, there is no order as to costs. Consequently connected Miscellaneous Petition is closed.

[S.V.G., CJ.]

[C.K., J.]

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NCC : Yes / No
Index : Yes / No
RR



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THE HON'BLE THE CHIEF JUSTICE
and
C.KUMARAPPAN, J.

RR

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