



Rev.Apl. W (MD) No.151 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2023

CORAM:

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

**Rev.Apl. W (MD) No.151 of 2023
and
C.M.P.(MD) No.16067 of 2023**

Jeyapal Varaprasatham

... Petitioner

-VS-

1.The Reserve Bank of India
No.6, Rajaji Road
Fort St.George, Chennai

2.The Authorized Officer
State Bank of India
Uthamapalayam Branch
South Car Street
Uthamapalayam Taluk
Theni District

3.M.Prakash

... Respondents

PRAYER: Review Application filed under Section 114, Order XLVII, Rule 1 of the Code of Civil Procedure, against the order dated 20.07.2023 made in W.P. (MD) No.5903 of 2023.



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For Petitioner : Mr.P.Krishnasamy
For Respondents : Mr.C.Deepak for R2
Mr.S.Vidhyasagar for R3

ORDER

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

This review application is filed to review the order, dated 20.07.2023, passed by this Court in W.P.(MD) No.5903 of 2023 filed by the petitioner.

2. Earlier, the petitioner filed a writ petition in W.P.(MD) No.5903 of 2023 challenging the order dated 23.02.2023, passed by the learned Chief Judicial Magistrate, Theni, in Cr.M.P.No.6368 of 2023, filed by the respondent – Bank, under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, for taking possession of the secured asset.

3. At the time of entertaining the writ petition in W.P.(MD) No. 5903 of 2023, the petitioner showed a demand draft for a sum of Rs.5,00,000/- (Rupees five lakhs only). Therefore, this Court directed the



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petitioner to approach the respondent – Bank and hand over the demand draft. However, it was reported earlier that the petitioner did not pay the said amount, despite an opportunity was given to him. It is in the said circumstances, the sale went on and a third party has purchased the secured asset in the auction conducted by the respondent – Bank pursuant to the sale notice. It is now reported that sale certificate was also issued to the auction purchaser. The petitioner pursued the writ petition, without challenging the sale conducted. This Court, after recording the conduct of the petitioner, by order dated 20.07.2023, dismissed the writ petition giving liberty to the petitioner to challenge the order impugned in the writ petition *viz.* order dated 23.02.2023, passed in Cr.M.P.No.6368 of 2022, by the learned Chief Judicial Magistrate, Theni, or the sale conducted subsequently before the Debts Recovery Tribunal, in the manner known to law. Seeking to review the said order, the petitioner has filed this review application, only on the ground that though the demand draft for a sum of Rs.5,00,000/- (Rupees five lakhs only) was made available to the respondent – Bank, they did not receive the same.

4. To be noted, this Court dismissed the writ petition indicating the effective alternative remedy of approaching the Debts Recovery Tribunal available to the petitioner. The facts recorded by this Court in the order



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passed in the writ petition are not in dispute. Though the petitioner seeks sympathy, this Court finds that the petitioner, instead of approaching this Court challenging the order passed by the learned Chief Judicial Magistrate, should challenge the sale, in the manner known to law, for appropriate relief. Despite repeated advice given by this Court, neither the petitioner nor his counsel understand the real concern this Court has even for the petitioner. It has been repeatedly held by this Court that review is not an appeal in guise and this Court can review the order only on a ground, which falls under Order XLVII, Rule 1 of the Code of Civil Procedure. This Court finds no error or any other ground to review the order passed in the writ petition.

5. Hence, this review application fails and it is dismissed. 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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