



W.P(MD)No.22363 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2023

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

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Ashok Saw Mill
A Partnership firm,
Represented by its Managing Partner Mr.Mohan N.Patel,
46/4-A, Bye Pass,
Ariymangalam,
Trichy-620 010 (In Bank's Possession)
Currently operating from residential address
Plot No.16, 2nd Street,
Lakshmipuram,
Ariyamangalam,
Trichy-620 010.

... Petitioner

VS.

The Authorized Officer,
Indian Overseas Bank,
127, LKS Towers,
West Boulevard Road,
Tiruchirappalli-620 008.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Declaration, to declare



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that the auction to be held on 07.09.2007 with no stay granted, but deferred for a new sale notice to be issued in accordance with law and tenders opened on 08.10.2007 by the Respondent without issuance of a fresh sale notice as mandated by law is an illegality apparent on the face it are illegal, non est and void.

For Petitioner : Mr.A.Saravanakumar

ORDER

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

The petitioner has sought for a declaration to declare the auction held on 07.09.2007 and the tenders opened on 08.10.2007 by the respondent as illegal, non-est and void.

2. Learned counsel for the petitioner stated that he has given a change of vakalat, but no memo is filed.

3. The petitioner has filed S.A.No.74 of 2007 before the Debts Recovery Tribunal, Madurai, on 06.09.2007 and by order dated 07.09.2007, the Debts Recovery Tribunal, Madurai, asked the



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respondent Bank to defer the sale to a future date as per paper publication effected and to issue correct version of sale notice adhering to the provisions of the SARFAESI Act. The order passed in S.A.No.74 of 2007 to defer the sale till issuance of fresh sale notice was challenged in CRP.1392 of 2007, in which, an order of stay was granted. Subsequently, the aforesaid S.A.No.74 of 2007 was withdrawn without deciding on merits and CRP.1392 of 2007 was also withdrawn and accordingly, it was dismissed on 11.12.2007.

4. Considering the fact that the petitioner filed S.A.No.74 of 2007, challenging the auction sale and subsequently withdrew the said application, the prayer of the petitioner to declare the auction held on 07.09.2007 and the tenders opened on 08.10.2007 by the respondent as illegal, non-est and void, is not maintainable and the same is liable to be rejected. *Prima facie*, no case is made out by the petitioner for allowing this writ petition.



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WEB COPY 5. Thus, the Writ Petition is dismissed granting liberty to the petitioner to approach the Debts Recovery Tribunal, for any remedy.

No costs.

NCC : Yes / No
Index : Yes / No
Internet : Yes
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[D.K.K.,J.] & [L.V.G.,J.]
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D.KRISHNAKUMAR, J.
and
L.VICTORIA GOWRI, J.

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ORDER MADE IN
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