BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2023

CORAM:

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

W.P(MD)No.19765 of 2023
and
W.M.P(MD)Nos.16317 and 16318 of 2023

Mr.Ibid Vino S.D. ... Petitioner

-vs-

The Authorized Officer,
State Bank of India,
Stressed Assets Recovery Branch (SARB),
Madurai (13165),
No.8, Dr.Ambedkar Road,
Vinayaga Nagar Branch First Floor,
Madurai-625 020. ... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the impugned E-Auction Sale Notice dated 07.07.2023 issued by the respondent bank published in The Hindu Paper publication dated 08.07.2023 and quash the same as illegal.

For Petitioner : Mr.R.J.Karthick
For Respondent : Mr.P.Pethu Rajesh
Standing Counsel

ORDER

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

This writ petition is filed challenging the sale notice dated 08.07.2023 fixing the sale on 17.08.2023.

2. The petitioner himself admits that he has filed a SARFAESI application as against the impugned sale notice. His grievance is that he is unable to move the Debts Recovery Tribunal for want of Presiding Officer who has gone on leave. The petitioner himself admits that writ petitions were filed earlier challenging the orders of the learned Chief Judicial Magistrate in the application filed under Section 14 of the SARFAESI Act. Though this Court entertained the said writ petition and deferred the orders passed under Section 14 of the SARFAESI Act, on condition that the petitioner should deposit 25% of the outstanding amount and then to repay the balance outstanding amount in six equal monthly instalments, the learned counsel for the petitioner states that he could not comply with the aforesaid conditions as he was unable to get prospective buyer for sale of his other properties which were not mortgaged. The loans were obtained in 2019 and the loan accounts were declared as NPA in 2022.

3. Though a detailed counter affidavit is filed indicating that the petitioner is incapable of fulfilling his promise, this Court finds no sufficient reason to deny one more opportunity to the petitioner/borrower who wish to get an opportunity to reduce the liability without eroding the security available to the respondent Bank. It is seen that as against the total liability of Rs.3.25 Crores indicated in the sale notice, the upset price for all the properties which were brought to the public auction comes to Rs.2.49 Crores.

4. In such circumstances, this Court with a condition that the petitioner may also be imposed with costs if he is unable to show his bona fides, is inclined to pass the following order:-

The sale proceedings shall go on as scheduled, but the confirmation of the sale is stayed on condition that that the petitioner shall pay a sum of Rs.29,25,000/- (Rupees Twenty Nine Lakhs and Twenty Five Thousand only), within a period of three weeks from today. In case, the petitioner fails to pay the said amount within the above stipulated time, it is open to the respondent Bank to proceed further in accordance with law and liberty is also preserved to the petitioner to approach the Debts Recovery Tribunal to pursue his pending application. This direction is only a stopgap arrangement in view of the fact that the Presiding Officer of the Debts Recovery Tribunal at Madurai is not in office for a short period.

5. With the above direction, the Writ Petition is disposed of. No costs. Connected miscellaneous petitions are closed.

[S.S.S.R, J.] **[D.B.C., J.]**
14.08.2023

Index : Yes / No
Neutral Citation : Yes / No
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S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

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