



W.P(MD)No.20625 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 22.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.20625 of 2015
and
M.P.(MD)No.2 of 2015

A.Sivagurumoorthy @ A.S.Moorthy

... Petitioner

Vs.

1.The Additional Director of Industries and Commerce,
Tamilnadu Industrial Co-operative Bank Ltd.,
No.36, South Kalvai Street,
Manthaivelipuram, R.A.Puram,
Chennai 600 028.

2.The Special Officer,
Tamilnadu Industrial Co-operative Bank Ltd.,
M.M.D.A. Office Complex,
Gandhi IR, with Road, Egmore,
Chennai 8.

3.The Branch Manager/Sale Manager,
TAICO Bank, Sivakasi Branch,
Sivakasi, Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the



W.P(MD)No.20625 of 2015

records pursuant to the impugned auction cum sale notice issued by the 3rd respondent published in Thinathanthi daily newspaper dated 08.11.2015 in respect of the petitioner's wife constructed house property in survey No.358, Door No.5/1-1 Mankundampatti, Thayilpatti village, Sivakasi Taluk, Virudhunagar District to the extent of 2679 sq.ft along with vacant land and quash the same as illegal, arbitrary.

For Petitioner : Mr.B.Balamurugan

For Respondents : Mr.S.Rajasekar for R3.
No appearance for R1.

ORDER

The petitioner had borrowed loan from the third respondent bank. The petitioner is said to have committed default. The bank initiated recovery steps. The petitioner's property was brought to auction sale. Challenging the auction sale notice, the present writ petition came to be filed.

2.This Court while admitting the writ petition granted interim order on condition that the petitioner deposits a sum of Rs.5,00,000/-.



W.P(MD)No.20625 of 2015

The learned counsel for the bank asserts that the condition was not complied with by the petitioner. The learned counsel for the petitioner seeks time to get instructions.

3.The basic facts are not in dispute. Of course for non-compliance of the condition stipulated by this Court, the writ petition cannot be dismissed. But the fact remains that the petitioner enjoyed an interim order and successfully prevented the bank from recovering the loan amount. The petitioner's conduct cannot be lost sight of by this Court. In any event even on merits, it is not open to the Writ Court to restrain the creditor institution from taking steps to recove their legitimate dues.

4.Leaving open all the other rights and remedies of the writ petitioner, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

3/4



WEB COPY



W.P(MD)No.20625 of 2015

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.20625 of 2015

22.08.2023