



C.R.P(MD)No.1963 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.10.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

C.R.P(MD)No.1963 of 2021

and

C.M.P(MD)No.10557 of 2021

and

C.M.P(MD)No.3094 of 2022

The Authorized Officer,
Tamilnadu Mercantile Bank Limited,
2/24-2, I Floor, P.B.No.18,
Thiruvananthapuram Main Road,
Marthandam.

:Petitioner/1st Respondent/
1st Defendant

.VS.

1.A.Ponnusamy

: 1st Respondent/Petitioner/
Applicant

2.N.Rajan

:2nd Respondent/2nd Respondent/
2nd Defendant

3.Mr.S.Varatharajan

:3rd Respondent/3rd Respondent/
3rd Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order of interim stay granted by the learned in-charge Debts Recovery Tribunal, Madurai dated 29.10.2021 in I.A.No.1517 of 2020 in S.A.No.385 of 2020.



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For Petitioner :Mr.N.Dilip Kumar
For R1 :Mr.A.N.Ramanathan
For R2 & R3 :No appearance

ORDER

[Judgment of the Court was made by **RMT.TEEKAA RAMAN.,J.**]

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.

2. By consent of both sides, this Civil Revision Petition itself is taken up for final disposal.

3. This Civil Revision Petition has been filed by the Authorised Officer of the Tamilnadu Mercantile Bank (In short 'the Bank').

4. The Brief facts of the case is that the second respondent, (borrower) has borrowed a loan from the appellant's bank and the said loan has been defaulted and declared as NPA. Therefore, proceeding under the SARFAESI Act has been initiated. On 06.08.2016 a demand notice under Section 13(2) of the SARFAESI Act has been issued and thereafter, on 21.12.2016 possession



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notice was issued by the appellant's bank. On 05.11.2020 the appellant's Bank has issued sale notice and the sale said to have been conducted on 04.12.2020 and the sale certificate was also registered on 09.12.2020 in favour of the third respondent. At this juncture, it appears that the first respondent, whose property is put on auction has filed the SARFAESI Application in S.A.No.385 of 2020 challenging the sale notice dated 05.11.2020. Pending the SARFAESI Application, the Bank has filed an application in C.M.P.No. 4287 of 2021 under Section 14 of SARFAESI Act before the learned Chief Judicial Magistrate, Kanyakumari District at Nagercoil for taking possession and the said application was allowed on 31.08.2021. Pursuant to the order passed by the learned Chief Judicial Magistrate, physical possession was taken on 09.04.2022.

5. In the meanwhile, it is represented that the property belonged to the guarantor, namely, the first respondent was brought in auction and in the sale proceedings, the third respondent herein is the auction purchaser. Hence, an amendment application has been filed in the SARFAESI Application in S.A.No.385 of 2020 to challenge the confirmation of sale. Further, the first respondent has filed an application in I.A.No.1517 of 2020 to stay the auction



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proceedings initiated by the Bank. Since there was no Presiding Officer in the Debt Recovery Tribunal at Madurai and also Debt Appellate Recovery Tribunal at Chennai, the present Civil Revision Petition has been filed before this Court.

6. The learned counsel appearing for the appellant/Bank would contend that at the time of admission, this Court on 09.12.2021 has stayed the impugned order, dated 29.10.2021 passed by the Debt Recovery Tribunal.

7. Learned counsel appearing for the first respondent seeks short accommodation.

8. Now, after hearing the learned counsel for the appellant and the first respondent, perusing the materials available on record and taking note of the change in circumstances that now the Presiding Officer has been appointed for the Debt Recovery Tribunal at Madurai, this Court, in the interest of justice, passed the following order:-



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"As stated by the counsel for the Bank that sale notice has been issued and that is the subject matter of S.A.No.385 of 2020. Sale was conducted and the sale certificate has been issued and the same was duly registered before the competent Sub-Registrar on 09.12.2020. Possession proceedings under Section 14 of SARFAESI Act has also been completed on 31.08.2021 and thereafter application has been filed for taking inventory before the Chief Judicial Magistrate that is also completed on 09.04.2022. Since the amendment application and the main SARFAESI Application is pending before the concerned Debt Recovery Tribunal, this Civil Revision Petition is disposed of with a direction to the Debt Recovery Tribunal at Madurai to dispose of the S.A.No.385 of 2020 within a period of twelve (12) weeks from the date of receipt of a copy of this order. Both parties are reserves their right to raise the plea, which they feel deem fit, in the SARFAESI application. No costs. Consequently, connected miscellaneous petitions are closed".

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
AM

[T.K.R.,J.] [P.B.B.,J.]
06.10.2023



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RMT.TEEKAA RAMAN,J.
AND
P.B.BALAJI,J.

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