



W.P(MD)No.20879 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2023

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE P.VADAMALAI**

W.P(MD)No.20879 of 2023
and
W.M.P(MD)Nos.17285, 17287 & 17288 of 2023

Mrs.N.Vallikumari

... Petitioner

Vs.

- 1.The Authorized Officer,
IDBI Bank Ltd.,
Anna Salai Branch,
Door No.115, Anna Salai,
Saidapet, Chennai – 15.
- 2.N.Srinivasan,
Chairman and Managing Director,
Auro Mira Bio Energy Madurai Ltd.,
Woodhead Centre,
3rd,4th, 5th Floor, No.23, Sivaganga Road,
Nungambakkam, Chennai – 600034.
- 3.N.Srinivasan,
Chairman and Managing Director,
Auro Mira Bio Energy Madurai Ltd.,
“Auro Mira House”
No.29, Shafee Mohammed Road,
Thousand Lights, Chennai – 600006.



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4.N.Srinivasan,
Chairman and Managing Director,
Auro Mira Bio Systems,
Kanyakumari Private Ltd., Wood Head Centre,
3rd, 4th, 5th Floor, No.23, Sivaganga Road,
Nungambakkam, Chennai – 600 034.

5.P.Balakrishnan,
(Auction Purchaser)

6.Mahesh Kumar,
Advocate Commissioner

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in CrI.M.P.No.9727 of 2023 passed by the Chief Judicial Magistrate, Nagercoil, Kanyakumari District, dated 19.07.2023 and quash the same as illegal and consequently, direct the respondents not to interfere with the peaceful possession of the petitioner's property.

For Petitioner : Mr.R.Prabhakaran

For R-5 : Mr.T.Thevan



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ORDER

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[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

We have heard Mr.R.Prabhakaran, learned counsel for the petitioner and Mr.T.Thevan, learned counsel for the fifth respondent.

2. The petitioner is challenging the order passed under Section 14 of the SARFAESI Act, 2002. The said order was challenged before the Debts Recovery Tribunal, Madurai by filing a Securitization Application in S.A.No.294 of 2023. The Debts Recovery Tribunal issued notice to the defendants 2 to 4, as the learned Advocate for defendant No.5 has appeared in the matter.

3. The learned counsel for the petitioner took us through the earlier order passed by this Court, dated 14.11.2022 in W.P(MD)No.7005 of 2022 and the subsequent order in the said writ petition, dated 21.02.2023. Under the interim order, dated 14.11.2022, the petitioner was directed to deposit a sum of Rs.5.41 Crores within the time stipulated therein.



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4. According to the learned counsel for the petitioner, the petitioner has complied with the said order and deposited the said amount of Rs.5.41 Crores. Subsequently, under order dated 21.02.2023, the said writ petition was disposed of giving liberty to the petitioner to avail the alternative remedy before the Debts Recovery Tribunal and to agitate her right before the civil Court. Pursuant thereto, the petitioner has filed S.A.No.294 of 2023.

5. The learned counsel for the petitioner submits that the Debts Recovery Tribunal did not grant stay and as such, the petitioner has filed the present writ petition. The learned counsel further submits that the petitioner has parted with Rs.5.41 Crores and has deposited the same with the bank.

6. According to the learned counsel for the fifth respondent / auction purchaser, the fifth respondent is the successful auction purchaser and had paid the entire amount of bid namely the said sum of Rs.5.41 Crores. The sale certificate is also registered in the name of the fifth respondent, so also his name is muted in the revenue records.



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According to the learned counsel for the fifth respondent, the petitioner is not the owner of the property also.

7. In the present writ petition, we are not deciding whether the petitioner who claims to be the Power of Attorney has title, right or interest in the property or to agitate. The petitioner has already filed a Securitization Application in S.A.No.294 of 2023 and the same is pending before the Debts Recovery Tribunal, Madurai. The Debts Recovery Tribunal has kept the matter on 29.08.2023. The parties shall appear before the Debts Recovery Tribunal on 29.08.2023 to put forth their stand.

8. So as to enable the petitioner to put forth her stand and for the Tribunal to consider the stand of the parties, we direct the status-quo as on today be maintained for a period of ten days. Within this period, the petitioner may put forth her case before the Debts Recovery Tribunal for necessary orders on merits.



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9. Needless to state that on lapse of ten days time, the protection granted by this Court shall automatically come to an end.

10. The learned counsel for the auction purchaser submits that in W.P(MD)No.7005 of 2022, the petitioner had filed an application in W.M.P(MD)No.12915 of 2023. The order was passed therein to refund the amount of Rs.5.41 Crores to the present petitioner. The said order was subject to the right that may accrue under the Special Leave Petition.

11. Be that as it may, all the contentions would be considered by the Debts Recovery Tribunal on its own merits.

12. The writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

(S.V.G., CJ.)

(P.V.M., J.)

28.08.2023

NCC :Yes/No
Index :Yes/No
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THE HON'BLE CHIEF JUSTICE

and

P.VADAMALAI, J.

PM

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