



W.P(MD)No.25897 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P(MD)No.25897 of 2023

and

W.M.P(MD)Nos.22238 & 22239 of 2023

Venkateshan

... Petitioner

Vs.

1.The Authorized Officer,
South Indian Bank,
Madurai Regional Office,
1st Floor, YMCA Building,
70 feet road,
Ellis Nagar,
Madurai - 625 016.



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2.The Branch Manager,
South Indian Bank,
Rajapalayam Branch,
Door Nos. 474, 476 and 477,
Opp. Chitra Hospitals,
Thenkasi Road,
Rajapalayam - 626 117,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Sale Auction Notice passed by the first respondent bank dated 11.10.2023 and quash the same as illegal and consequently directing the first respondent bank to regularize the loan account of the petitioner.

For Petitioner : Mr.P.M.Vishnu Varthanan

For Respondents : Mr.T.Thevan



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ORDER

Heard the learned counsel on either side. With the consent of the learned counsel on either side, this Writ Petition is taken up for final disposal.

2. The writ petitioner had availed credit facility to the tune of Rs.80,00,000/- (Rupees Eighty Lakhs only) from the respondent Bank. This was in the year 2018. The petitioner committed default; the respondent Bank initiated proceedings under SARFAESI Act.

3. The petitioner filed W.P.(MD)No.11017 of 2023. The Hon'ble Division Bench vide order, dated 28.04.2023 passed the following interim order :-

“Admit.

2. Mr.Thevan, learned Standing Counsel takes notice for the respondent – bank.



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3. The respondent – bank shall conduct sale, but, it shall not confirm the sale, if the petitioner pays a sum of Rs.42,38,000/- (Rupees Forty Two Lakhs and Thirty Eight Thousand only) to the respondent – bank, either in one lumpsum or in two installments on or before 15.06.2023.

4. Post the matter on 16.06.2023.”

However, when the matter came up for final hearing, the Writ Petition was disposed of as infructuous.

4. As per the order of this Court dated 28.04.2023, the petitioner had complied with the conditions imposed by this Court and he had paid a sum of Rs.42,38,000/- (Rupees Forty Two Lakhs and Thirty Eight Thousand only). Since the Writ Petition was disposed of as infructuous, the respondent Bank has issued a fresh tender cum auction sale notice. The auction is scheduled to be held on 30.10.2023. The petitioner is unable to approach the Debts Recovery Tribunal, since the Tribunal is not sitting due to Pooja holidays.



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5. We are satisfied that the petitioner had shown his *bonafides* by complying with the condition imposed by this Court, while granting interim order.

6. The petitioner comes forward to pay a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) by tomorrow i.e., **27.10.2023**. The balance amount is also undertaken to be paid by the petitioner in four equal monthly instalments. The first installment will commence on **01.12.2023**.

7. We make it clear that we have not quantified the exact liability of the petitioner. It is for the respondent Bank to quantify the same. If the petitioner fails to remit a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) by tomorrow evening i.e., **27.10.2023** or if he commits default in paying any one of the instalments, then the benefit of this order would stand vacated automatically.



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8. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S.,J.] [P.D.B.,J.]
26.10.2023

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

RM



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G.R.SWAMINATHAN, J.

AND

P.DHANABAL, J.

RM

ORDER MADE IN

W.P(MD)No.25897 of 2023

26.10.2023