



W.P(MD)No.29088 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.29088 of 2022
and
W.M.P(MD)Nos.23091 & 23092 of 2022**

- 1.M/s.Dhanalakshmi Timbers,
Represented by its Managing Partner,
Shenbaga Raman,
No.1/506, Tenkasi Shencottai Road,
Pairanoor Border,
Shencottai – 627 809.
- 2.Shenbaga Raman,
S/o.Sri.Ganapathi,
D.No.26, Karbagavinayagar Kovil Street,
Kadayanallur,
Tirunelveli – 627 751.
- 3.Mallika,
W/o.Shenbaga Raman,
D.No.26, Karbagavinayagar Kovil Street,
Kadayanallur,
Tirunelveli – 627 751.
- 4.Shanmugathaiammal,
W/o.Chellaiah,
D.No.26, Karbagavinayagar Kovil Street,
Kadayanallur,
Tirunelveli – 627 751.

... Petitioners



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VS.

- 1.The Authorized Officer,
Karur Vysya Bank,
Business Banking Unit – Bank,
No.8-A, 1st Floor, Melur Main Road,
Opposite to District Court,
K.K. Nagar,
Madurai – 625 020.
- 2.The Branch Manager,
Karur Vysya Bank,
Tenkasi Branch,
Tenkasi.
- 3.The Senior Manager,
Karur Vysya Bank,
Mattuthavani – Melur Main Road,
Near Mattuthavani Bus Stand,
Madurai – 625 107.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Ceritorarified Mandamus, to call for the records pertaining to the impugned letter vide ARB/MDU/REPLY/01/2022-2023, dated 17.12.2022 issued by the third respondent quash the same and direct the respondents Bank to inform the entire outstanding amount as on date in the light of the order, dated 09.11.2022 in W.P(MD)No.16392 of 2022 passed by this Court and consequently, to issue No Objection Certificate to sell the property mortgaged in favour of the respondents to the purchaser identified by the petitioners.



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For Petitioners : Mr.S.T.S.Moorthi
Senior Counsel
for Mr.V.Selvaraj

For Respondents : Mr.V.Sukumar
Standing Counsel

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

Mr.V.Sukumar, learned standing counsel takes notice for the respondents. By consent of both the parties, the Writ Petition is taken up for final disposal at the time of admission itself.

2.The petitioner has filed the present Writ Petition seeking for issuance of a Writ of Ceritorarified Mandamus, to quash the impugned letter, dated 17.12.2022 issued by the third respondent and to direct the respondents Bank to inform the entire outstanding amount as on date in the light of the order passed by this Court in W.P(MD)No.16392 of 2022, dated 09.11.2022 and consequently, to issue No Objection Certificate to sell the property mortgaged in favour of the respondents to the purchaser identified by the petitioners.



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3. According to the petitioners, they mortgaged the properties and obtained loan from the second respondent Bank. Since the petitioners have not paid the loan amount, the first respondent Bank initiated proceedings under the SARFAESI Act. Thereafter, the first respondent Bank issued an E-auction sale notice, dated 17.06.2022, fixing the auction sale on 27.07.2022. Challenging the said E-auction sale notice, dated 17.06.2022, the petitioners preferred a Writ Petition in W.P(MD)No.16392 of 2022 and this Court, by order, dated 09.11.2022, passed a conditional order. Since the petitioners were not in a position to comply with the conditional order, the petitioners made a representation, dated 10.12.2022 to the respondents Bank seeking permission to sell the mortgaged property in favour of the purchaser identified by the petitioners. The third respondent, vide reply, dated 17.12.2022 informed the petitioners that the respondent Bank would not consider the request sought for in the representation and would proceed with their recovery actions under the SARFAESI Act. Challenging the impugned order, dated 17.12.2022, the petitioners have filed the present Writ petition.



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4.The learned counsel appearing for the petitioners submitted that the petitioners undertake that they will approach the respondent Bank along with intending purchaser and satisfy the respondent Bank seeking for realizing of the mortgaged property and sell the property to the intending purchaser and to settle the entire outstanding loan amount to the respondents Bank.

5.The learned standing counsel appearing for the respondents Bank submitted that if the petitioners approach the respondent Bank with bona fide intending purchaser and satisfy the conditions of the respondents Bank, the respondents Bank will consider the petitioners' request.

6.In view of the abovesaid submissions, without expressing any opinion on the merits of the case, we are of the view that the petitioners shall approach the respondents Bank along with the intending purchaser within a period of one week from the date of receipt of a copy of this order and satisfy the conditions of the respondents Bank for realizing the mortgaged property. On receipt of such proposal, it is for the respondents Bank to consider the same in accordance with law at an earliest.



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7.With the above observations, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
02.01.2023
(1/2)

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

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To

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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
W.P(MD)No.29088 of 2022

DATED : 02.01.2023
(1/2)