



W.P.No.1289 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.1289 of 2024

Muthulakshmi

.. Petitioner

Vs.

1. The Union Bank of India
SSI Tirupur Branch
No.52, Lakshmi Building
New Market Street
Tiruppur 641 604.
2. The Authorised Officer
The Union Bank of India
Regional Office
No.52, Lakshmi Building
New Market Street
Tiruppur 641 604.
3. M/s. L.K.Exports
Rep. by its Partner M.Nandha Kumar
No.123, KNP Pudur Main Road
Tiruppur 641 604.
4. K.N.Kavin

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned order passed in I.A.No.174 of 2023 in AIR (SA) No.354 of 2023 dated 08.09.2023 by the Debt Recovery Appellate Tribunal at Chennai and to quash the same as perverse, erroneous and also to quash the sale certificate dated 20.11.2021 issued by the 1st respondent bank in favour of the 4th respondent in view of the compromise and consequently direct the 1st respondent bank to redeem the mortgage deed executed by the deceased Chellammal in respect of the loan account of the partners of L.K.Exports.

For the Petitioner : Mr.Ma.P.Thangavel

For the Respondents : Mr.N.Somasundaar
for Respondents 1 & 2

Mr.V.Sundarraman
for Respondent-3

Ms.M.Periyanayagi
for Respondent-4

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.Ma.P.Thangavel, learned counsel for the petitioner, Mr.N.Somasundaar, learned counsel for the respondents 1



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and 2, Mr.v.Sundarraman, learned counsel for the third respondent and Ms.M.Periyanayagi, learned counsel for the fourth respondent.

2. The petitioner had filed an appeal against the order of Debt Recovery Appellate Tribunal with an application for condonation of delay of 18 days in filing the appeal. The petitioner has filed proceedings before the Debts Recovery Tribunal challenging the auction sale. The application filed by the petitioner was rejected. Aggrieved thereby, the appeal was filed with an application for condonation of delay of 18 days. The application for condonation of delay is rejected.

3. During the pendency of the writ petition, the petitioner has entered into a settlement with the auction purchaser (fourth respondent). It is submitted that they have filed a joint compromise memo before the Debt Recovery Appellate Tribunal. The entire amount of sale has been paid.

4. Learned counsel for the fourth respondent (auction purchaser)



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accepts that the auction purchaser has received Rs.40,50,000/- from the petitioner and that the auction sale be cancelled. The bank also does not have any objection for the same.

5. Learned counsel for the bank however submits that still an amount of Rs.3.00 lakh and odd is payable in the account of the borrower.

6. Learned counsel for the petitioner submits that the remaining amount would be paid by the petitioner and the petitioner, along with her brother, would approach the bank for redeeming the mortgage.

7. It is accepted by the bank that after the payment of Rs.3.00 lakh and odd or the outstanding remaining, the mortgage would be redeemed in favour of the legal heirs of the deceased.

8. In the light of the aforesaid submissions made, the auction sale held pursuant to the auction notice dated 22.10.2021 is quashed and set aside. Consequently, the sale certificate dated 20.11.2021 is



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also quashed and set aside. The mortgage would be redeemed only after the petitioner pays the remaining amount due to the bank and all the legal heirs sign the document in favour of the bank for redeeming the mortgage.

9. The writ petition stands disposed of. There shall be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

12.03.2024

Index : Yes/No
Neutral Citation : Yes/No

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