



Rev.Aplw.No.28/2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Rev.Aplw.No.28/2020

Mr.Sivakumar

... Petitioner

Vs.

- 1.N.Gunasekar
- 2.The Authorised Officer
Central Bank of India
Third Floor, 14/15
Variety Hall Road
Coimbtore 641 001.
- 3.The Authorised Officer
Central Bank of India
No.248, Arjunaa Towers
Cherry Road, Salem 636 007.
- 4.Mr.Manivel
- 5.Mr.Ashok Kumar

... Respondents



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****RR4 and 5 given up vide order dated 08.02.2024
made in Rev.Aplw.NO.28/2020**

Common Prayer : Review application filed under Article 226 of the Constitution of India to review the order dated 28.01.2020 in WP.NO.1867/2020 by allowing the above review petition.

For Petitioner	: Mr.N.L.Rajah, Senior counsel for Mr.K.R.Arun Shabari
For R1	: Mr.Jayesh B.Dolia, Senior counsel for M/s.Aiyar and Dolia
For RR2&3	: Mr.M.L.Ganesh

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1)The above review application is filed by the petitioner to review the order dated 28.01.2020 made in WP.No.1867/2020.
- (2)The facts are not in issue before this Court.
- (3)It is brought to our notice that the auction purchaser/petitioner herein is a party to the writ petition in WP.No.1867/2020. Without even issuing



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notice to the auction purchaser who was arrayed as 3rd respondent in the writ petition, this Court has passed an order on 28.01.2020, recording the settlement between the borrower and the Bank and directing the borrower to settle the balance after acknowledging payments by the writ petitioner.

(4) It is also admitted that the sale took place on 23.12.2019 and the sale was also confirmed in favour of the review applicant herein/auction purchaser at the time when the writ petition was filed. However, based on the One Time Settlement offer extended by the Bank and the acceptance of the offer by the borrower, this Court has passed the order, disposing of the writ petition, which was filed to set aside the sale notice.

(5) This Court finds that there is an error apparent on the face of the record and therefore, the order, without hearing the auction purchaser, cannot be sustained.

(6) However, the learned standing counsel appearing for the writ petitioner / 1st respondent herein submitted that the sale itself is a nullity and fraudulent. This Court may consider the submissions of the learned counsel for the writ petitioner/1st respondent at the time of hearing the writ petition on merits.



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(7)As on date, the order passed by this Court in the writ petition without even hearing the auction purchaser who is a party to the proceedings in the writ petition, is liable to be reviewed.

(8)In the result, the Review Application **is allowed. WP.No.1867/2020 is restored and will be heard afresh.**

(9)In view of the rival submissions, this Court is inclined to direct the parties to maintain *status quo till such time the writ petitions are disposed of on merits.*

(10)On the earlier occasion, the learned counsel for the review applicant submitted that the review applicant has filed a writ petition in WP.No.3828/2020 seeking for issuance of a writ of mandamus to direct the 2nd respondent/Bank to register the Sale Certificate dated 18.01.2020 in the name of the auction purchaser and prayed for tagging of the said writ petition along with the review application, to be heard together.

(11)Hence, WP.Nos.3828/2020 is also before us for hearing.

(12)Since, this Court has allowed the review application today vide this order, Registry is directed to post both the writ petitions, namely,



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WP.Nos.1867/2020 and 3828/2002 before the concerned Bench for final hearing.

[SSSRJ] [RHJ]
04.03.2024

AP
Internet : Yes

To

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