



WP.No.16959/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.No.16959/2024 & WMP.No.18672/2024

1.P.Balaganesan
2.Mrs.B.Pratheeba

... Petitioners

Vs.

1.The Chief Manager
Recovery Division
Bank of India, Coimbatore Zonal
Office, Star House, No.324,
Oppankara Street, Coimbatore 641 001.

2.D.Hariharan
3.R.Vijayakumar
4.P.Harventh
5.The Sub Registrar
Joint 1, Coimbatore North.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of declaration declaring that the alleged sale certificate executed for the schedule mentioned property by the 1st respondent to 2nd,



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3rd and 4th respondents Sale Certificate Doc.No.7928/2023 dated 27.10.2023, Sub Registrar Joint I, Coimbatore North, herein is null and void and not binding upon the petitioner and to receive the auction sale certificate amount of Rs.54,08,000/- from the petitioner for the residential vacant plot situated at Site No.21, SF.No.129 Part, G.K.Square, Kurichi Privu near Kurichi village, Madukkarai Taluk, Coimbatore, an extent of 2388 sq.ft., land.

For Petitioner	: Mr.T.R.Kumaravel
For R1	: Ms.Rachana.S for Mr.F.B.Benjamin George

ORDER

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

- (1) Ms.Rachana.S, learned counsel accepts notice on behalf of the 1st respondent/Bank.
- (2) This writ petition is filed for declaring the Sale Certificate dated 27.10.2023 executed in respect of the property of the petitioner to respondents 2 to 4, as null and void and to direct the 1st respondent to receive the amount from the petitioner that was mentioned in the Sale Certificate.



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- (3) The petitioners admit that he had availed housing loan for a sum of Rs.75 lakhs. Though the petitioners state that the Loan Account is classified as NPA without following the directions and guidelines issued by the Reserve Bank of India, the fact that the 1st respondent/Bank initiated proceedings under Section 31[2] of SARFAESI Act, even in June 2022, is not disputed. After issuing possession notice, the property which was offered as security by the petitioners, was also sold in auction. From the admission of the petitioners themselves, the sale was confirmed and sale certificate dated 27.10.2023 was issued in favour of respondents 2 to 4.
- (4) It is unfortunate that the petitioner had neither challenged the auction sale nor any other proceedings under the SARFAESI Act so far. Normally, this Court will not entertain a writ petition challenging SARFAESI proceedings unless the proceedings initiated by the 1st respondent / Bank is without jurisdiction or in violation of principles of natural justice affecting the constitutional right of the petitioner..
- (5) In this case, on the admitted facts, the petitioner has not referred to any other proceedings wherein the sale as such, is challenged. In such circumstances, this Court is unable to entertain the writ petition.



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(6)The Hon'ble Supreme Court in the case of *Celir LLP Vs. Bafna Motors*

[Mumbai] Private Limited and Others reported in *AIR 2023 SC 4568*,

categorically held that the borrower will lose his right of redemption once the sale is published.

(7)This Court is unable to gather from the typed set of papers filed by the petitioner, as to any proceedings which have been initiated by the petitioner challenging the sale. In case the petitioner has filed any SARFAESI application or intends to file any such application in future on material irregularity in conducting sale, he may prosecute the same. However, we do not express any opinion on the merits or sustainability of such application.

(8)With the above observation, the writ petition stands **dismissed**. No costs.

Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [N.S., J.]
28.06.2024

AP

Internet : Yes



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To

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