



W.P.No.10494 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2024

CORAM :

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

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.10494 of 2024

M/s.Sira Finance (HUF)
Rep. by its Kartha, Kamal Nayan
S/o.Harakchand
Having Office at No.810
Anna Salai, Chennai – 600 002.

.. Petitioner

Vs.

1. Bank of India
Asset Recovery Branch
Rep. by its Assistant General Manager
Having its office at "Star House"
4th Floor, 30/17, Erabalu Street
Chennai – 600 001.

2. Uma Saminathan

3. Homa Samanvitha Saminathan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records leading to the issuance of the E-Auction Sale Notice dated 06.03.2024 in TRC.No.2703 of 2023 by the 1st respondent and quash the same and



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consequently, direct the 1st respondent not to initiate or proceed with any actions in respect of the property morefully described in the Schedule to the writ petition, in any manner whatsoever, unless by following due process of law.

For the Petitioner : Mr.B.Srivind Srevatsa

For the Respondents : Mr.F.Benjamin George
for R1

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.B.Srivind Srevatsa, learned counsel for the petitioner and Mr.F.Benjamin George, learned counsel for the first respondent.

2. Learned counsel for the petitioner contends that the second respondent and her deceased husband executed a registered mortgage deed in favour of the petitioner on 03.10.2008, thereby, mortgaging the property as a security for the loan advanced by the petitioner to the deceased husband of the second respondent. The second respondent has filed a suit for redemption of mortgage against the petitioner and the same is pending. The first respondent obtained



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recovery certificate against the second respondent and the other defendants and has put the property to sale. The first charge is of the petitioner.

3. Learned counsel appearing for the first respondent submits that the sale has already taken place on 15.04.2024 and that the petitioner cannot object the sale. At the most, the petitioner can file an objection under Rule 61 and Rule 62 of Schedule 2 of the Income Tax Act, 1961.

4. The sale has already taken place pursuant to the recovery certificate issued by the Recovery Officer, Debts Recovery Tribunal. Proceedings are pending before the Recovery Officer. The petitioner can raise objections before the Recovery Officer, which objections would certainly be considered on its own merits by the Recovery Officer.



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5. With the aforesaid observations, the writ petition stands disposed of. There shall be no orders as to costs. Consequently, W.M.P.Nos.11496 and 11497 of 2024 are closed.

(S.V.G., CJ.)

(J.S.N.P., J.)

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Index : Yes/No
Neutral Citation : Yes/No

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