



W.P.No.12918 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.12918 of 2024

Mr.C.Chandrasekaran

..

Petitioner

v.

1. The Authorised Officer
Indian Bank
83, Court Street
Tiruppur 641 601

2. The Branch Manager
Indian Bank
MSME Branch
83, Court Street
Tiruppur

..

Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for entire proceedings pertaining to the issuance of 3rd intended Sale Notice dated 30.01.2024 by the 1st respondent and quash the same and consequently direct the respondents to consider the private treaty with the introduced



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purchaser viz., T.Srinivasan, S/o Thangamuthu, pursuant to the terms of the MoU dated 23.07.2023.

For Petitioner :: Mr.R.Sriram

For Respondents :: Mr.S.Gopalakrishnan

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

The present writ petition is filed for issuance of a writ of certiorarified mandamus to quash the entire proceedings pertaining to the third intended sale notice dated 30.01.2024 issued by the first respondent and to consequently direct the respondents to consider the private treaty entered by the petitioner with the intended purchaser pursuant to the terms of MoU dated 23.07.2023.

2. The petitioner has now produced before this Court the interim order passed by the Debts Recovery Tribunal, Coimbatore in S.A.No.126 of 2024. By order dated 20.02.2024, the Debts Recovery Tribunal has passed the following order:-

“This Tribunal on considering the rival submissions of the



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parties and without going into merits of the case at present, and taking into account the substantial amount paid by the Applicant and dues outstanding in the Sale Notice, this Tribunal is of the view that the Applicant needs to be given a chance to prove his bonafides. Hence, this Tribunal hereby ordered to the Applicant to deposit a sum of Rs.3.00 crores to the Respondent Bank, out of which a sum of Rs.1.50 crores shall be paid to the Respondent Bank, on or before 19.3.2024 and another sum of Rs.1.50 crores shall be paid, on or before 16.4.2024 to the Respondent Bank. The Respondent Bank on receiving the sum as ordered by this Tribunal shall not confirm the sale, if any, held on the scheduled date of auction. If the Applicant failed to deposit any part of the sum as ordered by this Tribunal, the Respondent Bank shall be at its liberty to proceed further under the SARFAESI Act, without any reference to this Tribunal. The case is adjourned to 20.3.2024. Call on 20.3.2024.”

3. The learned counsel appearing for the petitioner admits that the conditional order passed by the Debts Recovery Tribunal, Coimbatore dated 20.02.2024 is not complied with. It is stated by the learned counsel that the



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petitioner has filed an appeal before the Debts Recovery Appellate Tribunal.

The details as to the pendency of further appeal before the Debts Recovery Appellate Tribunal are not placed before this Court. When the petitioner candidly admits before this Court that the interim order granted by the Debts Recovery Tribunal is not complied with, he cannot challenge the sale notice dated 30.01.2024 by filing the present writ petition. Since the petitioner has already filed a SARFAESI appeal challenging the sale notice dated 30.01.2024, this Court cannot entertain this writ petition, in the light of the view expressed by the Hon'ble Supreme Court in several precedents. The petitioner cannot avail the parallel remedy taking advantage of his own default in complying with the conditional order. Leaving it open to the petitioner to urge all of his contentions before the Debts Recovery Tribunal, Coimbatore or to challenge the order of the Tribunal by filing further appeal, this Court is not inclined to entertain this writ petition, which is devoid of any merit on the admitted facts. The filing of writ petition for the same cause is an abuse of process. Therefore, the writ petition is dismissed with costs of Rs.20,000/- (Rupees twenty thousand only) payable by the petitioner to the '**Chief Justice Relief Fund for District Judiciary**



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Employees' within a period of four weeks from the date of receipt of a copy of this order. Consequently, W.M.P.No.14085 of 2024 is also dismissed.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)
03.06.2024

ss

To

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S.S.SUNDAR,J.

AND

N.SENTHILKUMAR,J.

SS

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