



W.P.No.13291 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM :

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

W.P.No.13291 of 2024

M/s Iris Art Galleria Private Limited
rep.by its Authorised Signatory, G.Ashok
Y-34, Bhagya Lekha Apartments
Door No.1A, First Floor, 5th Avenue Road
Anna Nagar West, Chennai 600 040 .. Petitioner

v.

1. The Authorised Officer
Indian Overseas Bank
Asset Recovery Management Branch
Central Office, Annex Building, 3rd Floor
No.763, Anna Salai
Chennai 600 002

2. T.S.Ravikumar
3. T.R.Subramaniam .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records/proceedings of the 1st respondent in respect of the impugned sale certificate dated 19.03.2024 issued in favour of the respondents 2 and 3, which is subsequently registered on 27.3.2024 vide document No.2499/



W.P.No.13291 of 2024

2024 at the office of Sub Registrar, Villivakkam in the alleged auction sale held on 21.12.2023 pursuant to the sale notice dated 01.12.2023 in respect of the petition property, being ground and premises situated at Plot No.W18 (Old No.W-188), North main road Anna Nagar West Extension, Chennai 600 101, the site measuring to an extent of 4720 sq.feet together with building consisting of ground floor with two upper floors, having the total built up area of approximately 6710 sq.feet and quash the same as there was no valid sale taken place on 21.12.2023 and arbitrary, unjustifiable and illegal and also colourable exercise of power and consequently direct the 1st respondent to follow the provisions of the SARFAESI Act while dealing with the secured assets in the manner known to law.

For Petitioner :: Mr.V.Suriya Sankar

For Respondents :: Mrs.Ananda Gomathi for R1
 Mr.P.Krishnan for R2 & R3

ORDER

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

This writ petition is filed for issuance of a writ of certiorarified Mandamus, calling for the records/proceedings of the 1st respondent in respect of the impugned sale certificate dated 19.03.2024 issued in favour of the respondents 2 and 3, which is subsequently registered on 27.3.2024 vide document No.2499/ 2024 at the office of Sub Registrar, Villivakkam after the auction sale held on 21.12.2023 pursuant to the sale notice dated 01.12.2023 in respect of the petition property, being ground and premises



W.P.No.13291 of 2024

situated at Plot No.W18 (Old No.W-188), North main road Anna Nagar West Extension, Chennai 600 101, the site measuring to an extent of 4720 sq.feet together with building consisting of ground floor with two upper floors, having the total built up area of approximately 6710 sq.feet and quash the same on grounds that there was no valid sale taken place on 21.12.2023 and that the same is arbitrary, unjustifiable and illegal and also colourable exercise of power and consequently to direct the 1st respondent to follow the provisions of the SARFAESI Act while dealing with the secured assets.

2. It is not in dispute before this Court that the sale had taken place long back and the sale certificate also was issued to the auction purchaser. The petitioner has challenged the sale notice and the sale certificate on factual grounds.

3. The learned counsel appearing for the first respondent has produced the judgment of a three-Judge Bench of the Hon'ble Supreme Court in *PHR Invent Educational Society v. UCO Bank and others* (Civil



W.P.No.13291 of 2024

Appeal No.4845 of 2024 dated 10.04.2024), wherein the Hon'ble Supreme Court has carved out the exceptions to maintain a writ petition under Article 226 of the Constitution. A writ petition is held not maintainable if an effective alternative remedy is available to the aggrieved person under the statute under which proceedings had been initiated.

4. In view of the factual position that the sale had taken place long back and the question of limitation is also raised by the auction purchaser, this Court finds that the writ petition is not maintainable. Therefore, leaving it open to the petitioner to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act, this writ petition is dismissed. Consequently, interim order stands vacated and the W.M.P.Nos.14435 & 14438 of 2024 are also dismissed.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)
06.06.2024

SS



W.P.No.13291 of 2024

To
WEB COPY

1. The Authorised Officer
Indian Overseas Bank
Asset Recovery Management Branch
Central Office, Annex Building, 3rd Floor
No.763, Anna Salai
Chennai 600 002



WEB COPY



W.P.No.13291 of 2024

S.S.SUNDAR,J.

AND

N.SENTHILKUMAR,J.

SS

W.P.No.13291 of 2024

06.06.2024