



WEB COPY



W.P.No.21479 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2024

CORAM :

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

W.P.No.21479 of 2023

J.Shanthi

.. Petitioner

v.

1. The Authorized Officer
Union Bank of India
Asset Recovery Branch
No.09, Elconso Building
Casa Major Road, Egmore
Chennai 600 008

2. The Chief Manager
Union Bank of India
Asset Recovery Branch
No.09, Elconso Building
Casa Major Road, Egmore
Chennai 600 008

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents to consider the petitioner's representation dated 28.10.2022 within the stipulated time and consequently direct the respondents to refund the sum of Rs.26,33,400/- paid by the petitioner while participating in the auction sale



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that was purchased by the petitioner in public auction is not encumbered.

Since the encumbrance is nothing but an order of attachment that was not binding on the mortgagee and the position was also clarified by the respondent Bank, this Court is unable to accept the contention of the petitioner that the property is encumbered and that therefore the petitioner is unable to pay the balance. The petitioner has not produced before this Court even a statement or anything to show that the petitioner had sufficient money to pay the balance amount after the earnest money deposit and the initial payment on confirmation of the sale. In the absence of any evidence that the petitioner was ready and willing to get the sale certificate from the respondent Bank, the petitioner has made an attempt to wriggle out of her contractual obligations. As per the agreement, the petitioner has undertaken to pay the balance on confirmation of sale within the stipulated time. In case the petitioner is unable to pay, the respondents are also entitled to forfeit the earnest money deposit and further payment made by the petitioner, if it is permissible in accordance with law. This Court, having regard to the facts narrated and the points argued, is unable to find any merit in this writ petition. Hence, the writ petition is dismissed. However, liberty is given to



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the respondent Bank to proceed with the sale and if required or permissible to forfeit the earnest money deposit plus the further payment made by the petitioner, after giving an opportunity to the auction purchaser to put forth her case. No costs.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)
04.07.2024

SS

To

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AND

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