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W.P.Nos.16936 and 14985 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2024

CORAM :

THE HON'BLE MR. K.R. SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE SENTHIL KUMAR RAMAMOORTHY

W.P.Nos.16936 and 14985 of 2019
and W.M.P.Nos.14937 and 14938 of 2019

W.P.No.16936 of 2019

M/s Sripathy Associates,
Auction Purchaser,
rep. by its Managing Partner, S.Srinivasamoorthy,
No.62, Thangaperumal Street, Erode-638 001.

... Petitioner

-vs-

1. The Debt Recovery Appellate Tribunal,
DRAT, Chennai.
2. Vivek Mathur
3. M/s Mathur Micro Motors and Appliances
Private Limited, B-109 to 124, Alsa Industrial Estate,
Saki Vihar Road, Andheri, Mumbai – 400 072.
4. Pridhvi Asset Reconstruction and Securitization
Company Limited, Rep. by its Authorised Signatory,
N.R.K.Chandulal, Chief Manager, Door No.1-55,
4th Floor, Raja Prasadamu, Masjid Banda Road,
Kondapur, Hyderabad-500084.

... Respondents



W.P.Nos.16936 and 14985 of 2019

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records in M.A.No.62 of 2018 dated 24.04.2019 in DRC.No.53 of 2012 Old DRC No.105 of 2008 in OA.No.108 of 2006 and quash the 2nd part of the order "In view of the fact that R1 & R2 borrowers also made a deposit of the dues though belatedly, they will pay 5% poundage fee of the due amount to the Auction Purchaser and 6% p.a. simple interest on the sale amount for the period from 06.02.2018 to 10.04.2018 (date of impugned order) to the Auction Purchaser, within 30 days from date of this order, so that Auction Purchaser will be compensated suitably" as illegal, arbitrary and beyond the scope of law.

For Petitioner	:	Mr.K.Ponraj for M/s.D.Gopal
For Respondents	:	R-1 Tribunal
	:	Mr.Ravi Senior Counsel for M/s.Kumarpal R.Chopra for RR 2 and 3
	:	Ms.Aishwarya S.Nathan, for R-4

W.P.No.14985 of 2019

1. Vivek Mathur

2. M/s Mathur Micro Motors and Appliances Pvt Ltd.,
B-109 to 124, Alsa Industrial Estate,
Saki Vihar Road, Andheri, Mumbai-400 072.

.... Petitioners

-VS-

1. The Debt Recovery Appellate Tribunal DRAT,
Chennai.



W.P.Nos.16936 and 14985 of 2019

2. M/s Sripathy Associates, Auction Purchaser,
rep. by its Managing Partner, S.Srinivasamoorthy,
No.62, Thangaperumal Street, Erode-638 001.

3. Pridhvi Asst Reconstruction and Securitization
Company Limited, Rep. by its Authorised Signatory,
N.R.K.Chandulal, Chief Manager,
Door No.1-55, 4th Floor, Raja Prasadamu,
Masjid Banda Road, Kondapur, Hyderabad-500084. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 1st respondent in MA.No.62 of 2018 dated 24.04.2018 (impugned order) in DRC. No.53 of 2012 Old DRC. No.105 of 2008 in O.A.No.108 of 2006 and quash the same as it is illegal, arbitrary and issued in violation of principles of natural justice with respect to the sale of property situated at R.A.Puram, Chennai 600 028 and restore the sale and consequently direct the 3rd respondent to accept a sum of Rs.2,79,58,371/- Two Crores Seventy Nine Lakhs Fifty Eight Thousand Three Hundred and Seventy One as full and final settlement as per order dated 10.04.2018 and the order dated 26.04.2018 of the Hon'ble DRT Appeal No.03/1028.

For Petitioners	:	Mr.Ravi Senior Counsel for M/s.Kumarpal R.Chopra
For Respondents	:	R-1 Tribunal
	:	Mr.K.Ponraj for M/s.D.Gopal for R-2
	:	Ms.Aishwarya S.Nathan for R-3



W.P.Nos.16936 and 14985 of 2019

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ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

There are two petitions filed, one by the auction purchaser, that is, W.P.No.16936 of 2019 and the other by the guarantor/borrower, being W.P.No.14985 of 2019. In both these petitions, the same order is impugned. The said order is dated 24.04.2019 passed by the Debt Recovery Appellate Tribunal at Chennai.

2. The auction purchaser, that is, petitioner in W.P.No.16936 of 2019, has challenged the order on the ground that the borrowers ought to have exercised their right of redemption as provided under the provisions of the SARFAESI Act before the auction sale took place. At the same time, the indisputable position is that the auction purchaser had deposited only 25% of the bid amount, after which a status quo order was passed and the remaining amount was deposited by the auction purchaser,



W.P.Nos.16936 and 14985 of 2019

notwithstanding the status quo order.

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3. In the impugned order, there is a finding that the Presiding Officer, Debts Recovery Tribunal, had failed to take care that the auction purchaser should not have deposited the balance amount. According to the auction purchaser, he was not aware of the status quo order. We are not getting into that because by the order passed by the Debts Recovery Tribunal dated 10.04.2018, which was impugned before the Debt Recovery Appellate Tribunal, the auction purchaser was permitted to withdraw the amount paid by him to the Recovery Officer. Mr.Ravi states, on instructions, that the auction purchaser had withdrawn the money. In view of the statement made by Mr.Ravi, nothing will survive in W.P.No.16936 of 2019. Accordingly, the petition is dismissed.

4. We should also add that on the last date, i.e., on 13.11.2024, petitioner's counsel had sought an adjournment. We granted and today, again petitioner's counsel sought an adjournment, which we declined. We



W.P.Nos.16936 and 14985 of 2019

asked the counsel present in Court to argue the matter, but he said he has no instructions. Therefore, on this ground also, the petition is required to be dismissed.

5. Now coming to the other writ petition, that is, W.P.No.14985 of 2019, filed by the borrower, Sri.Ravi, on instructions, stated that petitioners would pay 11% interest for two months on Rs.23 crores, less the interest that was accrued on the amount deposited by the auction purchaser with the Recovery Officer.

6. We would accept this offer of Mr.Ravi because the auction purchaser had deposited 25% of Rs.23 crores when the auction was confirmed and the balance was paid by him after a status quo order was passed. It is also recorded in the impugned order that the Presiding Officer, Debts Recovery Tribunal failed to take care of the interests of the auction purchaser and therefore, petitioners, in our view, cannot be blamed for that. Moreover, when a person is spending an amount of Rs.23 crores and the party is a partnership firm, who has purchased the property in the



W.P.Nos.16936 and 14985 of 2019

auction conducted by the Recovery Officer, we will not be misplaced in assuming that he ought to have enquired with the Debts Recovery Tribunal whether there is any impediment in the auction before he paid the balance amount. In fact, the lender should have informed him about the status quo order and therefore, petitioners cannot be blamed for that. In the circumstances, in our view, petitioners be directed to pay 11% interest on Rs.23 crores for the period from 06.02.2018 to 10.04.2018, less the interest, if any, that the auction purchaser would have earned from the deposit made with the Recovery Officer.

7. Accordingly, W.P.No.14985 of 2019 is disposed of on the following directions:

- a) Respondent No.3, that is, Pridhvi Asset Reconstruction and Securitization Company Limited, is directed to approach the Recovery Officer to provide a certificate of interest earned and paid to the auction purchaser. The application shall be made within one week.
- b) Respondent No.3 shall also issue a full satisfaction memo within one week and file the same with the Recovery Officer along with the application for issuance of interest certificate with a copy to petitioner's advocate. Upon



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W.P.Nos.16936 and 14985 of 2019

receiving the full satisfaction memo, the Recovery Officer shall also vacate the order of attachment unless there is any other order to the contrary.

- c) On receipt of the application from Respondent No.3, the Recovery Officer shall issue the required certificate within two weeks thereafter.
- d) Petitioners/Borrower and Guarantor will make the payment of 11% interest on Rs.23 crores for the period from 06.02.2018 to 10.04.2018, less the interest, if any, that the auction purchaser would have earned from the deposit made with the Recovery Officer, to the auction purchaser within four weeks from the date of issuance of certificate by the Recovery Officer, along with a statement as to how the amount paid has been arrived at.
- e) Within two weeks from today, the auction purchaser/ Respondent No.2 to indicate the account to which the amount shall be credited, to the advocate for petitioner.

In fine, W.P.No.16936 of 2019 is dismissed and W.P.No.14985 of 2019 is disposed of. There shall be no order as to costs. Consequently, the interim applications are closed.



W.P.Nos.16936 and 14985 of 2019

(K.R.SHRIRAM., CJ.)

(SENTHILKUMARAMAMOORTHY, J.)

20.11.2024

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Index : Yes/No
NC : Yes/No

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To:

1. The Debt Recovery Appellate Tribunal,
Chennai.
2. The Debts Recovery Tribunal-II,
Chennai.



W.P.Nos.16936 and 14985 of 2019

THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY,J.

(sra)

W.P.Nos.16936 and 14985 of 2019

20.11.2024