



WEB COPY



W.P.No.31945 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

CORAM

THE HON'BLE Mr. JUSTICE S.S.SUNDAR
AND
THE HON'BLE Dr. JUSTICE A.D.MARIA CLETE

W.P.No.31945 of 2024
AND
W.M.P.Nos.34694 & 34695 of 2024

R.Ramachandran

.. Petitioner

Vs.

1.The Deputy Registrar
National Company Law Tribunal, Chennai Bench
Corporate Bhawan II Floor
Beach Road, Mannadi, George Town
Chennai 600 001

2.The Registrar
National Company Law Tribunal
Block No.3, Ground, 6th, 7th & 8th Floor
C.G.O. Complex, Lodhi Road
New Delhi 110 003

3.State Bank of India
Rep. by its General Manager
Red Cross Building
32, Monteith Road, Egmore
Chennai 600 008

4.Shri Amir Hamas Ali Abbas Rawthar
Liquidator appointed under IBC, 2016
Room No.94, SBIOA Unit Enclave
Mambakkam PO, Chennai 600 127



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5.GBJ Hotels Private Limited
Having office at 164/165, Avinashi Road
Peelamedu, Maheshwari Nagar
Coimbatore 641 004

.. Respondents

Writ Petition filed under Clause 15 Article 226 of the Constitution of India, praying for issuance of a writ of Certiorari calling for the records of the proceedings of the National Company Law Tribunal (1st respondent) in IA/IBC/530/CHE/2023 in CP/243/2021 dated 09.02.2024 directing the joint e-auction and quash the same and consequently issue a writ of declaration declaring the sale certificate issued by virtue of the issuance of confirmation of sale dated 31.07.2024 to the purported auction purchaser *vide* the e-auction conducted on 17th/18th day of July 2024 as null and void.

For Petitioner : Mr.S.R.Raghunathan
for Mr.Vigneshwar Elango

ORDER

(Made by S.S.SUNDAR, J.)

We do not find any merit in this writ petition. It is admitted that the Bank has already proceeded against the property under Securitisation And Reconstruction of Financial Assets and Enforcement Security Interest Act, 2002 (SARFAESI Act) and possession has been taken.



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2. When the property is sold in favour of a third party, the petitioner has filed this writ petition for a declaration that the sale certificate issued in favour of the said third party as null and void. As the sale is pursuant to an order of National Company Law Tribunal (NCLT) dated 09.02.2024, the petitioner has not exercised his right or redemption, till the sale is confirmed.

3. It is seen that only at the instance of the Official Liquidator, an application was filed before the NCLT. Only to get maximum value of the assets, the NCLT passed the order directing joint sale of properties of the corporate debtor and the guarantor both under the Insolvency and Bankruptcy Code, 2016 (IBC) and SARFAESI Act, by issuing joint sale notice. This order is not to prejudice the rights of the petitioner as owner of the property to redeem the mortgage. It is seen that the NCLT has passed the order on the following lines :

“(i) In order to maximize the value of the assets of the corporate debtor, the applicant along with the respondent No.1 (SBI) shall take steps to conduct a joint sale of the properties of the corporate debtor and the guarantor both under IBC, 2016 and SARFAESI Act, 2002, by issuing a Joint e-auction sale notice.

“(ii) It is made clear that the respondents 2 and 3 (whose properties have been taken possession under SARFAESI Act 2002), shall have their rights and remedies available under the SARFAESI Act.”



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4. Since the rights of the petitioner to seek remedy available under SARFAESI Act is protected, this Court finds no legal injury to the petitioner to entertain this writ petition. Therefore, this writ petition stands dismissed. No costs. Connected C.M.P.s are closed.

[S.S.S.R.,J.] [A.D.M.C., J.]
28.10.2024

Index : Yes/No
Neutral Citation : Yes/No
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