



W.P.No.33144 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2024

CORAM :

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

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

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&

W.M.P.Nos.35898 to 35900 of 2024

1. M/s. Viswam Weaving
Rep. by its Prop. Mrs.P.Tamilarasi
3/134J, Thattan Thottam, Sivamurugan Nagar
Ganeshapuram, S.S.Kulam (Via)
Coimbatore 641 107.

2. P.Tamilarasi
3. D.Ravikumar
4. D.Sagunthala

.. Petitioners

Vs.

1. Union Bank of India
Somanur-1 Branch
Somanur Road, Karumathampatti
Coimbatore 641 668.

2. The Authorised Officer
Union Bank of India
Asset Recovery Branch
P.B.No.8, 235, Oppanakkara Street
Coimbatore 641 001.



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3. N.Senthil Kumar

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Declaration to declare the act of the 2nd respondent conducted auction sale dated 26.09.2024 with respect to the properties S.F.No.382/1A and S.F.No.382/1B1 total measuring extent of land situated at Kattampatti Village, Annur Taluk, Coimbatore as null and void while pending disposal of NDN(S) D.No.1845/2024 and S.A.No.808/2024 on the file of Debts Recovery Tribunal, Coimbatore.

For Petitioners : Mr.S.Mukunth
Senior Counsel
For M/s.Sarvabhauman Associates

For the Respondents : Mr.N.Somasundaar
for Respondents 1 & 2

ORDER

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

The petition was listed this afternoon pursuant to an urgent circulation sought. We were informed that petitioners have discharged some part of the debt and that the bank was going to take possession of the property today.



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2. At the outset, counsel submitted that petitioners had intention to resolve the matter with the bank. Counsel also stated that the petitioners will go to the Debts Recovery Tribunal (DRT), where, the problem faced by the petitioners is DRT Registry is insisting on filing a copy of the notices issued under Section 13(2) and 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, whereas, petitioners have not received any such notices. So petitioners are unable to comply.

3. Counsel for respondent bank is disputing this fact. He states, however, that without prejudice to the bank's rights and contentions, photocopy of these two notices will be made available to petitioners' counsel to enable petitioners to file an appeal before the Debts Recovery Tribunal.

3. At the same time, we also have to record counsel's undertaking on behalf of petitioners that petitioners would pay a sum of Rs.50.00 lakh (Rupees fifty lakh only) to respondent bank with prejudice, subject to



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statement of accounts and reconciliation. Counsel states that Rs.25 lakh (Rupees twenty five lakh only) will be paid immediately, which must be by tomorrow and the balance Rs.25 lakh (Rupees twenty five lakh only) will be paid on or before 13.11.2024.

4. In view of the statement made by counsel, which is accepted as an undertaking on behalf of petitioners, the bank shall not take possession of the property until 13.11.2024. If the first instalment is not paid, the Debts Recovery Tribunal will not even entertain an appeal from petitioners. We are saying this because of the assurance and undertaking given by counsel on behalf of petitioners. If the appeal is filed after the first instalment is paid and in case there is a default in second instalment, the appeal filed in the Debts Recovery Tribunal shall stand dismissed without further reference to this Court or to the Debts Recovery Tribunal. If there is default in any of the instalments, the bank is at liberty to take possession forthwith and the statement of counsel that they shall not come in the way of bank taking possession or handing over possession to third party who has purchased the property and to whom sale certificate is issued, is accepted.



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5. Petition is disposed of. There shall be no order as to costs.

Consequently, W.M.P.No.35898 of 2024 filed to permit petitioners to file a single writ petition is ordered and W.M.P.Nos.35899 & 35900 of 2024 are also disposed of.

(K.R.SHRIRAM, CJ)

(SENTHILKUMAR RAMAMOORTHY,J.)

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Index : No
Neutral Citation : No

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

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