



W.P.(MD) No.1421 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.1421 of 2024
and W.M.P.(MD)Nos.1455, 1457 & 1459 of 2024

P.Abinaya Thendral
Proprietrix M/s.Abinaya Thendral

... Petitioner

Vs.

The Authorized Officer,
State Bank of India,
SARB, No.8, Dr.Ambedkar Road,
Vinayaga Nagar Branch I Floor,
Madurai – 625 020.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the Learned Chief Judicial Magistrate, Madurai dated 20.12.2023 made in CrI.M.P.No.804 of 2023 and the consequential Auction Sale Notice

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dated 29.12.2023 issued by the Respondent fixing the date of Sale on 24.01.2024 for the subject properties and quash the same.

For Petitioner : Mr.S.Suresh

For Respondents : Mr.P.Pethurajesh

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Challenging the order passed by the Learned Chief Judicial Magistrate, Madurai dated 20.12.2023 made in CrI.M.P.No.804 of 2023 and the consequential Auction Sale Notice dated 29.12.2023 issued by the respondent fixing the date of sale on 24.01.2024 for the subject properties, the petitioner has filed this Writ Petition.

2. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.



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3. The learned counsel appearing for the petitioner submitted that the petitioner has availed a loan from the respondent bank and since the petitioner has not paid the loan amount, the same was declared as NPA on 30.06.2023. Hence, the respondent bank initiated proceedings under the SARFAESI Act. As against the impugned notice issued under Section 13(4), the petitioner has filed an appeal in S.A.No.630/2023 before the Debts Recovery Tribunal and the Debts Recovery Tribunal has granted conditional interim stay. However, the respondent bank has filed an application in Cr.M.P.No.804 of 2023 before the learned Chief Judicial Magistrate, and got an order on 20.12.2023 for taking possession of petitioner's property and based on the said order, the respondent bank has issued the sale notice on 29.12.2023 fixing the auction on 24.01.2024. As against both the orders, the petitioner has filed an appeal before the Debts Recovery Tribunal, Madurai. However, the said application was returned by the Registry of Debts Recovery Tribunal, Madurai stating that both the orders cannot be challenged in one Appeal. Therefore, the petitioner has filed this Writ Petition before this Court.



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4. At the time of hearing, the learned counsel for the petitioner has produced the order of the Debts Recovery Tribunal, Madurai, dated 18.01.2024, wherein the appeal filed by the petitioner was taken on file. Hence, the prayer sought for in this Writ Petition has become infructuous. However, the learned counsel for the petitioner seeks some interim protection till the stay application to be decided the Debts Recovery Tribunal, since the auction to be held on tomorrow ie., on 24.01.2024.

5. The learned counsel appearing for the respondent bank submits that to show his bonofide, the petitioner has to pay some amount to the respondent bank.

6. Considering the submissions made by the learned counsel for the petitioner that the auction to be held on 24.01.2024, we are inclined to grant some protection to the petitioner. Accordingly, as per the conditional interim order granted by the Debts Recovery Tribunal, Madurai in S.A.No.630 of 2023, dated 10.11.2023, the petitioner shall pay the 2nd installment of Rs.46,95,000/-



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on or before 31.01.2024 and pay the 3rd installment of Rs.46,95,000/- on or before 12.02.2024. With regard to the balance amount is concerned, the parties are directed to approach before the Debts Recovery Tribunal.

7. In the meantime, the respondent bank shall proceed with the auction, but not to confirm the sale.

8. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] [R.V., J.]

23.01.2024

Neutral Citation: Yes / No
Index : Yes / No
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