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W.P.(MD) No.1656 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.1656 of 2024

and

W.M.P.(MD)Nos.1693 and 1695 of 2024

A.R.Mohamed Fathima Rumana

... Petitioner

-Vs-

The Authorised Officer,
Punjab National Bank,
Circle SASTRA Centre,
PNB House,
Trichy-Tanjor Road,
Kailasapuram,
Trichy-620 014.

...Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the impugned E-auction sale notice dated 18.01.2024 issued by the respondent, quash the same as illegal.

For Petitioner : Mr.A.S.Abul Kalaam Azad
for M/s.Spicy Law Firm

For Respondent : Mr.V.Balasubramanian



W.P.(MD) No.1656 of 2024

ORDER

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

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Challenging the e-auction notice dated 18.01.2024 issued by the respondent, the petitioner has filed the present writ petition.

2.The petitioner's father-in-law obtained a loan from the respondent Bank for running educational Institutions. For the said loan, the petitioner stood as a guarantor by mortgaging her property in favour of the respondent bank and a memorandum of deposit of title deed was also executed. The father-in-law of the petitioner was paying the instalments regularly. However, due to some financial crisis, the loan dues were not able to be paid by her father-in-law. Hence, proceedings under SARFAESI Act was initiated by the respondent bank and auction notice was also issued. Hence, the petitioner is constrained to move the present writ petition before this Court.

3.The learned counsel for the petitioner submits that the e-auction sale notice was served on the petitioner only on 20.01.2024 and the date of auction was fixed on 02.02.2024. Proviso to Rule 9(1) of the SARFAESI Act mandates that the authorised officer shall serve, affix and publish notice of sale of not less than 15 days to the borrower, for any subsequent sale. In the present case, 15



W.P.(MD) No.1656 of 2024

days time period between the date of service of notice and the date of auction was not granted to the petitioner.

4.He further submits that the petitioner is ready to redeem the property mortgaged with the respondent bank by paying the entire loan amount of Rs.1,30,00,000/- borrowed by her father-in-law. She had already approached the respondent bank to settle the entire loan amount, but the respondent bank refused the OTS proposal of the petitioner by letter dated 29.12.2022 and all of a sudden without following the procedure contemplated under the Rules in force, issued the auction notice impugned in this writ petition. Now, the petitioner undertakes to pay 25% of the entire loan amount of Rs.1,30,00,000/- at first to show her promptness and pay the remaining amount in three instalments.

5.The learned counsel appearing for the respondent bank, on instructions, submits that the respondent bank is ready to accept the proposal of the petitioner to settle the entire loan amount borrowed by the borrower. He also submits that on making such payment, the original title deeds will be returned to the petitioner. He also undertakes not to conduct the auction scheduled to be conducted on 02.02.2024.



W.P.(MD) No.1656 of 2024

6.In view of the submissions made on either side, this Court holds that the petitioner shall approach the respondent bank with a proposal to settle the entire loan amount and it is for the respondent bank to act upon the same. It is made clear that this Court has not expressed any opinion on the merits of the matter.

7.With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] & [R.V., J.]
30.01.2024

NCC : Yes / No4
Index : Yes / No
Internet : Yes / No
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W.P.(MD) No.1656 of 2024

D.KRISHNAKUMAR, J.

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W.P.(MD)No.1656 of 2024

30.01.2024