



W.P.(MD) No.3024 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.3024 of 2024

and

W.M.P.(MD)No.3000 of 2024

P.Renganathan

... Petitioner

-Vs-

- 1.The Authorized Officer,
Canara Bank,
Asset Recovery Management Branch,
Regional Office,
No.1, Royal Road, Cantonment,
Trichy-620 001.
- 2.Canara Bank,
Rep.by its Branch Manager,
Trichy Puthur Branch,
No.604, Anbagam Buildings,
Puthur Four Road, Trichy-620 017.
- 3.M/s.Oxina Land Developers Pvt Ltd.,
Rep by its Managing Director Mr.K.Jeyakarna,
No.37, Bishop Road, Tennur,
Trichy-6200 017.



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4.The Authorised Officer,
Indian Overseas Bank,
Cantonment Branch,
TELC Complex, Cantonment,
Trichy.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified mandamus to quash the Sale Certificate dated 03.10.2022 Doc.No.9004 of 2022, SRO Uraiyur issued by the respondents 1 and 2 to the third respondent pursuant to the Sale Notice dated 18.06.2022 and the auction conducted on 25.07.2022 as illegal and ultravires and consequentially direct the respondents to hand over the Schedule mentioned property to the petitioner along with the original title deeds, by receiving the auction price of Rs.17,20,10,000/-.

For Petitioner	: Mr.K.Chellapandian Senior Counsel for Mr.A.K.Bakara Pandian
For R1 & R2	: Mr.C.Deepak Standing Counsel
For R3	: Mr.Mohaboob Athiff
For R4	: Mr.N.Dilipkumar Standing Counsel

ORDER

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

Mr.C.Deepak, learned Standing Counsel takes notice for the respondents 1 and 2, Mr.Mahaboob Athiff, learned counsel takes notice for the third respondent and Mr.N.Dilipkumar, learned Standing Counsel takes notice



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for the fourth respondent. By consent of both parties, this writ petition is taken up for final disposal at the time of admission itself.

2.Challenging the sale certificate dated 03.10.2022 vide document No. 9004 of 2022, SRO Uraiyur issued by the first and second respondents to the third respondent on the basis of the sale notice dated 18.06.2022, the petitioner has filed this writ petition seeking for a consequential relief to hand over the schedule mentioned properties to the petitioner along with the original title deeds by receiving the auction price.

3.The petitioner is a partner in M/s.Sri ACL Infosys providing IT products, services and solutions. He has borrowed a loan from the second respondent bank to the tune of Rs.700.00 lakhs on 04.07.2013 for the purpose of meeting out the working capital requirements by mortgaging his properties scheduled in this writ petition. Due to heavy financial problem caused by the demonetization and GST scheme, the petitioner suffered a heavy loss in his business and he was not in a position to repay the loan dues to the respondent bank. Hence, the respondent bank has classified the account of the petitioner as NPA and issued the demand notice under the provisions of the SARFAESI Act,



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dated 25.09.2018 demanding a sum of Rs.25,82,24,208.18/-. On receiving the same, the petitioner made a representation dated 01.02.2019 to release one of the mortgaged property and the same was acceded to by the respondent bank. Thereafter, the respondent bank issued a possession notice on 27.03.2019 in respect of the secured assets, which was also put to challenge by the petitioner before the Debts Recovery Tribunal and an order of interim stay was granted.

4.While the matter stood thus, the respondent bank sold three items of mortgaged property in the auction sale conducted on 25.07.2022. Therefore, the petitioner filed W.P.(MD)No.17624 of 2022 challenging the auction sale notice dated 18.06.2022 and obtained an order of status quo on condition to pay a sum of Rs.10 crores within the stipulated time. However, due to financial constraints, the petitioner was not able to comply with the said conditional order. Hence, the respondent bank issued a sale certificate dated 01.10.2022 to the auction purchaser and the same registered on 03.10.2022.

5.Thereafter, the respondent bank issued another sale notice dated 03.10.2022 in respect of the moveables properties in the schedule mentioned property and another unsold movable property belonging to the guarantor.



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Challenging the same, the petitioner filed W.P.(MD)No.23983 of 2022, and this Court by an order dated 04.11.2022 disposed of the said writ petition directing the petitioner to pay a sum of Rs.20 lakhs at the first instance and pay the remaining amount within the stipulated time. The petitioner paid Rs.20 lakhs at the first instance, but he was not able to pay the remaining due amount as directed by this Court. Again the respondent issued a fresh sale notice dated 02.01.2023. Challenging the same, the petitioner filed W.P.(MD)No.2786 of 2023 and obtained a conditional order of interim stay of confirmation of sale. The petitioner paid Rs.3 crores in compliance of the conditional order of this Court. However, in the meanwhile, the respondent bank sold the property to a third party/auction purchaser. Further, on the request made by the petitioner, the auction purchaser had agreed that the petitioner can take the movables in the property in Plot No.70, Lourdasamy Pillai Colony on payment of Rs.4 crores. The petitioner also paid the said amount and repurchased the said movable properties.

6.The learned counsel for the petitioner submits that the respondent bank has grossly undervalued all the secured assets without obtaining a proper valuation, which were sold by them. They have failed to publish the sale notice



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to avoid participation of outside bidders colluding with their beneficiaries. He has also submitted the valuation report to substantiate his contention that the properties mortgaged by the petitioner is worth about more than Rs.80 crores, but the respondent bank has sold the properties only for a sum of Rs.17 crores. Now the petitioner is ready to pay the entire sale amount and redeem the property. Hence, the petitioner has filed this writ petition, challenging the sale certificate issued by the respondent bank to the auction purchaser.

7.The learned counsel appearing for the respective respondent banks and the auction purchaser, in one voice, submit that the actions taken by the respondent banks were being challenged by the writ petitioner on several occasions in one way or the other and the petitioner did not allow the bank authorities to proceed with the auction. Since the petitioner failed to repay the loan dues, the respondent banks issued sale notice for some of the properties. Though the petitioner challenged the said sale notice and obtained a conditional order of interim stay, the petitioner failed to comply with the said conditions even after obtaining extensions of time from time to time. Hence, the respondent banks sold the secured assets.



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8.It is an admitted fact that the petitioner defaulted in payment of loan dues and hence, sale notices were issued in respect of the secured assets. Further, the petitioner also failed to comply with the conditional order passed by this Court in the litigations initiated by him against the sale notices even after providing with sufficient time. Thereafter, the secured assets were sold by the respondent banks and sale certificates were also issued to the auction purchaser. The auction sale notice dated 18.06.2022 was already challenged by the petitioner in W.P.(MD)No.17624 of 2022, which was disposed of by this Court by an order dated 12.12.2022 holding as follows:

“7.Admittedly, this Court by order dated 05.08.2022, has granted conditional order of interim stay directing the petitioner to pay a sum of Rs.5 Crores on or before 05.09.2022 and a further sum of Rs.5 Crores on or before 06.10.2022. However, the petitioner sought for extension of time to comply with the said conditional order and despite the extension of time granted by this Court on 07.09.2022, the petitioner has not complied with the conditional order of stay. Further, the petitioner cannot invoke the remedy under Article 226 of the Constitution by raising the disputed fact regarding the value of the property without exhausting the remedy before the Debts Recovery Tribunal. Moreover, now the sale certificate issued in favour of the auction purchasers and the same has been registered on 03.10.2022 and a third party right has been created over the



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petitioner's property. Therefore, we are not inclined to consider the prayer sought for by the petitioner.”

9.From the above, it is seen that the prayer sought for by the petitioner in the present writ petition has already been taken note of by this Court and liberty was also granted to the petitioner to approach the Debts Recovery Tribunal, if he is so aggrieved by the actions of the respondent bank. However, the petitioner has filed the present writ petition. Re-adjudicating the same issue cannot be entertained. Therefore, there cannot be any fresh cause for the writ petitioner to re-adjudicate the issues which reached finality before this Court. Thus the writ petitioner is not entitled for the relief as such sought for in the present writ petition. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
13.02.2024

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R.VIJAYAKUMAR, J.

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