



W.P.(MD) No.4704 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2024

CORAM:

THE HONOURABLE **MR.JUSTICE D.KRISHNAKUMAR**

AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD)No.4704 of 2024

and

W.M.P.(MD)Nos.4536 and 4538 of 2024

V.Palaniappan

... Petitioner

-Vs-

1.The Reserve Bank of India,
Rep. by Deputy Governor,
Department of Banking Operations & Development,
Central Office Building, Shahid Bhagat Singh Marg,
Mumbai-400 001.

2.The Authorized Officer / Chief Manager,
The South Indian Bank Ltd.,
Regional Office-Madurai,
First Floor, YMCA Building,
Oppo.Astoria Hotels,
70 Feet Road, Ellis Nagar,
Madurai.

3.The Branch Manager,
The South Indian Bank Ltd.,
Branch Office-Anna Nagar, Madurai.

... Respondents



W.P.(MD) No.4704 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned E-Auction Cum Sale Notice issued by the 2nd respondent dated 05.02.2024 and the Auction sale is scheduled to be held on 01.03.2024 and quash the same on the ground that the same is arbitrary, illegal.

For Petitioner : Mr.D.Gurusamy

For Respondents : Mr.T.Thevan

Standing Counsel

ORDER

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

The E-Auction Cum Sale Notice issued by the 2nd respondent dated 05.02.2024, proposing to conduct Auction sale on 01.03.2024, is under challenge in this Writ Petition.

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

3.According to the petitioner, earlier challenging the possession notice dated 08.05.2023 issued by the respondent Bank, he filed W.P.(MD)No.13321 of 2023, wherein this Court, vide order dated 08.06.2023, observed that all further



W.P.(MD) No.4704 of 2024

proceedings pursuant to the possession notice dated 08.05.2023 are stayed, if the petitioner pays a sum of Rs.30,00,000/- (Rupees Thirty Lakhs Only) to the respondent Bank on or before 07.07.2023. Pursuant to the same, the petitioner has also paid the said amount. However, the respondent Bank issued the present sale notice dated 05.02.2024, which amounts to disobedience of the order of this Court.

4.The said contention made by the petitioner is strongly denied by the learned Standing Counsel appearing for the respondent Bank and he submitted that the petitioner has not approached this Court with clean hands and in the said Writ Petition filed by the petitioner, this Court passed the following conditional order:-

“7.Considering the said request of the petitioner, the writ petition is disposed of with the following directions:

(i)We stay all further proceedings pursuant to the possession notice dated 08.05.2023, if the petitioner pays a sum of Rs.30,00,000/- (Rupees Thirty Lakhs Only) to the second respondent – Bank, on or before 07.07.2023.

(ii)The remaining amount shall be paid by the petitioner in five equated monthly installments commencing from 07th August, 2023. The monthly installments shall be paid on or before 07th of every succeeding month.



W.P.(MD) No.4704 of 2024

(iii)The interest that accrues in the interregnum and the cost of the sale shall be paid along with the last installment.

(iv)In the interregnum, the bank and the petitioner shall sit together and resolve the difference regarding the remaining amount of Rs.6,00,000/- (Rupees Six Lakhs Only).

(v)If there is a default in payment as directed above, the respondent – Bank can proceed further to take possession of the secured asset as well as for recovery of the amount due.”

5.He further submitted that the said conditional order has not been fully complied with by the petitioner and he has paid only the first installment. Therefore, due to such non-compliance of the directions issued by this Court, the respondent Bank has issued the present auction sale notice. Further, the petitioner has also approached the Debts Recovery Tribunal by filing S.A.No.641 of 2023 and the Tribunal has also granted interim order not to confirm the sale till 14.06.2024 on condition to pay the entire outstanding amount in seven equal monthly installments (a sum of Rs.13,64,000/- (Rupees Thirteen Lakhs and Seventy Four Thousand Only) for every month). Despite the said conditional order passed by the Tribunal, the petitioner has not taken any efforts to comply with the said directions.



W.P.(MD) No.4704 of 2024

WEB COPY

6. In view of the said submissions made on either side, we are of the view that the petitioner, without disclosing the correct facts, has filed this Writ Petition and has not produced the relevant documents before this Court. Though the petitioner has obtained interim conditional order either before this Court or before the Debts Recovery Tribunal to stay the proceedings initiated by the respondent Bank on every stage, he has not complied with the same even after the period is over. The said conduct of the petitioner cannot be appreciated. Further, the appeal filed before the Debts Recovery Tribunal is also still pending. Therefore, finding no merits in this Writ Petition, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] & [R.V., J.]
28.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva



WEB COPY



W.P.(MD) No.4704 of 2024

D.KRISHNAKUMAR, J.

AND

R.VIJAYAKUMAR, J.

Yuva

W.P.(MD)No.4704 of 2024

28.02.2024