



WP(MD). No.5128 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 19/12/2024

CORAM

**THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE Mrs. JUSTICE L.VICTORIA GOWRI**

**WP(MD). No.5128 of 2023
and WMP(MD) No.4823 of 2023**

Sakthivel N

... Petitioner

Vs

1. The Authorized Officer,
Indian Bank, Ukkirankottai Branch,
Tirunelveli.

2. Indian Bank,
Corporate Office, Door No.254-260,
Avvai Shanmugam Salai, Royapettah,
Chennai 600 014.

... Respondents

PRAYER :- Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue of Writ of Mandamus directing the respondents to forbear to sale the petitioners properties which is situated in Tirunelveli District, Mannur Taluk, Kadanganeri Village, Oothumalai Sub Registration Office in survey No. 4788/2A, 478/16, 478/17, Residential building bearing old Door No.5/41, new Door No. 5/69 in Natham Survey No. 361/1, Residential building bearing old Door No.4/71, New No.4/109, Natham Survey No.374/1, New Natham land tax plan survey No.528/12, Residential building bearing Door No.5/9, in



WP(MD). No.5128 of 2023

Natham Survey No.374/1B, New Natham land tax plan survey No.533/9, Natham Survey No.274/6, 274/7, commercial building bearing Door No. 901 in Natham Survey No.274/5 Natham punjai Survey No.274/8B on the basis of impugned sale auction notice dated 06.02.2023 issued by the 1st respondent and to consider the petitioner's representation dated 06.03.2023.

For Petitioner : Mr.R.M.Subbiah
For Respondents : Mr.M.Arumugam

ORDER

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

Counsel for petitioner states that he has complied with the conditional order passed on 10.03.2023.

2. The petition is filed to restrain respondents from selling the mortgaged property as mentioned in the prayer. The fact that petitioner is a borrower is not disputed. The fact that petitioner was declared as NPA is not disputed. The fact that as on 05.02.2023, amount in excess of Rs.1,70,00,000/- with further interest, costs, other charges and expenses thereof was payable is not disputed. But the fact is apart from paying the amount of Rs.30 lakhs as per the conditional order, not a



WP(MD). No.5128 of 2023

farthing has been paid.

WEB COPY

3. Counsel for petitioner states that his client would pay a sum of Rs.50 lakhs within five days. In our view, this offer is too less and is given too late in the day. The petitioner could have shown his *bona fides*, relying on which, the Court had granted interim relief, by continuing to pay sizeable amount even after 10.03.2023.

4. It is common knowledge that a borrower has to repay the loan taken. Here is the petitioner, who admittedly owes in excess of Rs.1.70 crores as per bank in March, 2023, but in the last 19 months, has paid only Rs.30 lakhs and that also in view of judicial order passed. We have no confidence in this petitioner being true to his words to settle the loan claim of the bank. Petition is dismissed.

5. Counsel for respondents is pressing for cost. Petitioner shall pay a sum of Rs.25,000/- as cost to this petition, which amount shall be paid within two weeks from today. If the amount is not paid, the bank may add this amount also to the outstanding dues and the bank will be entitled to interest at the contractual rate on this amount as well.



WP(MD). No.5128 of 2023

Consequently connected Miscellaneous Petition is closed.

WEB COPY

(K.R.SHRIRAM, C.J.)
GOWRI, J.)

(L.VICTORIA

19.12.2024

NCC : Yes/No
Index : Yes/No

RR



WEB COPY



WP(MD). No.5128 of 2023

THE HON'BLE CHIEF JUSTICE

AND

L.VICTORIA GOWRI, J.

RR

ORDER

IN

WP(MD) No.5128 of 2023

Date : 19/12/2024