



W.P.(MD)No.8957 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.04.2024

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

**W.P(MD)No.8957 of 2024
and
W.M.P.(MD)No.8147 of 2024**

M/s.PMR Constructions,
represented by Prop.R.Arumugam,
Madurai.

... Petitioner

VS

The Authorised Officer,
M/s.The Canara Bank,
Madurai P&T Nagar Branch,
Madurai District.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned sale notice passed by the respondent, dated 12.03.2024 and to quash the same as illegal and not to disturb the peaceful possession of the petitioner's house property in Plot No.45 in R.S.No.1/10 at Sri Varamangala Nagar, Anaiyur 2nd Bit Village, Madurai North Taluk, Madurai District.

For Petitioner : Mr.K.Dinesh



W.P.(MD)No.8957 of 2024

For Respondent : Mr.N.Dilip Kumar

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ORDER

(Order of this Court was made by **G.ARUL MURUGAN, J.**)

The Writ Petition is filed challenging the impugned sale notice issued by the respondent, dated 12.03.2024 and to quash the same and for a consequential direction not to disturb the peaceful possession of the petitioner's house property at Plot No.45 in R.S.No.1/10 at Sri Varamangala Nagar, Anaiyur 2nd Bit Village, Madurai North Taluk, Madurai District.

2.The case of the petitioner is that he has availed a loan from the second respondent Bank for a sum of Rs.38,00,000/- by mortgaging his properties. Even though he had been making the payment of instalments regularly, however, due to the loss in the business due to COVID-19 pandemic, there were some defaults, due to which, his account was classified as non performing asset and a notice under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “SARFAESI Act”) was issued on 09.03.2022 demanding a sum of Rs.38,73,904/-. Pursuant to



W.P.(MD)No.8957 of 2024

the possession notice issued, the Bank had proceed to conduct e-auction sale of the property and the petitioner had earlier filed a Writ Petition in W.P.(MD)No.21953 of 2022 before this Court challenging the sale notice, wherein, as the successful bidder, after making the initial bid amount of Rs.3,50,000/-, did not make the further payment, the sale was cancelled and therefore, the Writ Petition was dismissed as infructuous.

3. Thereafter, the secured creditor/Bank had filed an application under Section 14 of SARFAESI Act before the learned Chief Judicial Magistrate, Madurai, and the learned Chief Judicial Magistrate, Madurai, by order, dated 01.09.2022 in Crl.M.P.No.1217 of 2022 appointed an Advocate Commissioner for securing the possession and hand it over to the secured creditor. Hence, the petitioner preferred an appeal before the Debts Recovery Tribunal, Madurai, in S.A.No.112 of 2023. The Tribunal had granted a conditional interim order directing the petitioner to pay a sum of Rs.7,50,000/- to the Bank on or before 31.08.2023 as first instalment and a further sum of Rs.7,50,000/- to the Bank on or before 30.09.2023 and if there is any default, the Bank is at liberty to proceed further, as the interim order shall stand vacated automatically. Since the interim order was not



W.P.(MD)No.8957 of 2024

complied with by making payments, further proceedings by taking possession has been resorted to. In the meantime, the Bank has issued the impugned sale notice, dated 12.03.2024. Challenging the same, the present Writ Petition has been filed.

4.Mr.N.Dilip Kumar, learned Counsel, who takes notice on behalf of the respondent Bank, on instructions, submitted that the sale date fixed pursuant to the impugned sale notice was on 30.03.2024 and there was no bidders in the auction. Therefore, the sale was cancelled and nothing survives for further adjudication in the Writ Petition. The learned Counsel further submitted that a fresh sale notice has also been issued on 09.04.2024.

5.Already an order under Section 14 of the SARFAESI Act has been passed by the learned Chief Judicial Magistrate, Madurai, in CrI.M.P.No. 1217 of 2022 on 01.09.2022 and the petitioner has also challenged the same before the Debts Recovery Tribunal, Madurai, in S.A.No.112 of 2023 and admittedly, the same is pending. However, by the impugned sale notice, the auction date has been fixed on 30.03.2024, which is over and it is brought to



W.P.(MD)No.8957 of 2024

the notice of this Court that there were no bidders on the date of auction and thereby, the auction was cancelled and a fresh sale notice has been issued on 09.04.2024.

6.In view of the above, nothing survives for further adjudication in the present Writ Petition, as such, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[R.S.K., J] & [G.A.M., J]
10.04.2024

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

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To

- 1.The Chief Judicial Magistrate, Madurai.
- 2.The Presiding Officer,
Debts Recovery Tribunal, Madurai.



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W.P.(MD)No.8957 of 2024

R.SURESH KUMAR, J.

AND

G.ARUL MURUGAN, J.

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Order made in
W.P(MD)No.8957 of 2024

10.04.2024