



W.P.(MD) No.13967 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.13967 of 2022

and

W.M.P.(MD)Nos.9939 and 9940 of 2022

R.Jeyarajakani

... Petitioner

-Vs-

1.The Authorized Signatory,
M/s.Tamil Nadu Mercantile Bank Ltd.,
Tirupur Branch, No.233-236, Palladam Road,
Tirupur-641 604.

2.The Authorized Officer,
M/s.Tamil Nadu Mercantile Bank Ltd.,
Tirupur Branch, No.233-236, Palladam Road,
Tirupur-641 604.

3.J.George Diaz

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the sale notice dated 15.12.2021 issued by the respondent bank culminating into the auction sale dated 19.01.2022 and quash the same.

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For Petitioner : Mr.Y.Prakash
For R1 & R2 : Mr.N.Dilipkumar
Standing Counsel
For R3 : Mr.S.Murugavel

ORDER

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

Challenging the sale notice issued by the respondent bank, the present writ petition is filed.

2.The property in R.S.No.684/1 at Mathusoothanapuram Village, Agasteeswaram Taluk at Thiru Nagar Parakkai Post, Kanyakumari District belonging to the petitioner was mortgaged with the respondent bank for the purpose of availing loan by the petitioner. There were defaults in payment of loan dues. Hence, respondent bank issued the impugned sale notice to the petitioner.

3.The learned counsel for the petitioner submits that the respondent bank without following the procedure as contemplated under the Rules in force issued the possession notice and the sale notice with respect to the secured assets and



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the respondent bank has undervalued the secured asset and brought it for auction. He further submits that the petitioner is ready to settle the entire loan amount under the One Time Settlement scheme. However, the respondent bank without considering the said request, has issued the impugned sale notice.

4.The learned Standing Counsel for the respondent bank submitted that the auction was conducted and the property was sold to a third party. Sale certificate was also issued to the borrower and the same was registered on 02.05.2022. Only after the sale certificate was registered, the petitioner has filed the present writ petition. He has also relied upon the judgment of the Hon'ble Supreme Court in *Celir LLP vs. Bafna Motors (Mumbai) Pvt. Ltd., and others* [2023 SCC online SC 1209], wherein it has been held that the right of redemption available to the borrower under the present statutory regime is drastically curtailed and would be available only till the date of publication of the notice under Rule 9(1) of the Rules of 2002 and not till the completion of the sale or transfer of the secured asset in favour of the auction purchaser.

5.In view the submission made by the learned counsel for respondent Bank and considering the decision rendered by the Hon'ble Supreme Court, this



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Court is not inclined entertain the writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] & [R.V., J.]
26.02.2024

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

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