



Rev.Aplw.(MD) No.103 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

Rev.Aplw.(MD) No.103 of 2024

Maria Michael

... Petitioner

-VS-

The Branch Manager,
Tamil Nadu Mercantile Bank,
College Road,
Main Branch, Nagercoil-629 001.

... Respondent

PRAYER: Review Application filed under Article 226 of the Constitution of India and Order XLVII Rule 1 & 2 read with Section 114 of Code of Civil Procedure, to review the order passed in W.P.(MD)No.8216 of 2023, dated 11.04.2023, on the file of this Court.

For Petitioner : Mr.Lakshmi Gopinathan
For Polax Legal Solutions

For Respondent : Mr.N.Dilip Kumar



Rev.Aplw.(MD) No.103 of 2024

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

WEB COPY

The review has been sought for of our order dated 11.04.2023 made in W.P.(MD)No.8216 of 2023. The said Writ Petition was filed seeking a Certiorarified Mandamus, to quash the letter dated 20.02.2023 and consequently, direct the respondents to refund the EMD deposit. We have dismissed the Writ Petition on the ground that the petitioner has not come forward to pay even the 25% of the bid amount payable on the date of the receipt and hence, the bank was right in forfeiting the investment in deposit.

2. The learned counsel for the review petitioner would vehemently contend that the balance money was not paid because of the certain proceedings that were pending at the time of auction. We are unable to agree with the said contention of the learned counsel. As we have observed in the order under review, the forfeit had happened pursuant to the contract between the parties.

3. This Court cannot sitting under Article 226 of Constitution of India enter upon the realm of contract and issue a Mandamus which will run counter to the terms of the contract between the parties. If we are to entertain the review, we will be entering upon a factual controversy between the parties which is not permitted under order 47 of the Code of Civil



Rev.Aplw.(MD) No.103 of 2024

Procedure, 1908.

WEB COPY

4. Hence, this Review Petition is dismissed. There shall be no order as to costs.

[R.S.M., J.]

[L.V.G., J.]

28.08.2024

NCC : No
Index : No
Internet : Yes
Sml / Mrn



WEB COPY



Rev.Aplw.(MD) No.103 of 2024

R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

Sml / Mrn

Rev.Aplw.(MD) No.103 of 2024

28.08.2024