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W.P.Nos.32845 of 2018, 15804 of 2017 and 2081 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 02.07.2025

PRONOUNCED ON: 10.07.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

W.P.Nos.32845 of 2018, 15804 of 2017, and 2081 of 2019  
and WMP Nos.38055, 38057 and 38050 of 2018,  
17110 of 2017 and 2334 of 2019

**WP No.32845 of 2018**

1. The Authorised Officer,  
Indian Overseas Bank,  
Regional Office, Kancheepuram.

2. The Branch Manager,  
Indian Overseas Bank,  
Main Branch, Vellore.

... Petitioners

Vs

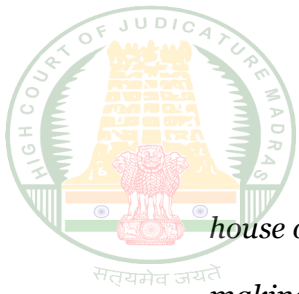
1. Indirani Ammal

2. Noor Basha

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for a writ of certiorari, calling for the records in RA.(SA)No.240 of 2010 on the file of the Debts Recovery Appellate Tribunal at Chennai and quash the following portion of the order dated 01.06.2017,

*“she have an opportunity to retain possession of the house by making a deposit of Rs.6,45,245/- plus interest as per contract @ 14.50% p.a., from 04.07.2005 till 04.07.2017 with quarterly rests. Otherwise bank will dispossess the appellant of the*



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house on or after 04.07.2017.

*Appeal stands dismissed subject to aforesaid liberty to retain the house on making the payment as above within four weeks from the date of this order”*

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For Petitioner : Mr. F.B.Benjamin George

For Respondents : Mr.P.Raghunathan (For R1)  
for M/s.T.S.Gopalan & Co  
No appearance (For R2)

**WP No.15804 of 2017**

Indirani Ammal

... Petitioner

Vs

1. The Chairperson,  
Debts Recovery Appellate Tribunal,  
IV Floor, Indian Bank,  
Circle Office, 55, Ethiraj Salai,  
Chennai – 600 008.

2. The Presiding Officer,  
Debts Recovery Tribunal-III,  
5<sup>th</sup> Floor, Dewa Towers,  
770, Anna Salai, Chennai – 600 002.

3. The Authorised Officer,  
Indian Overseas Bank,  
Regional Office, Kancheepuram.

4. The Branch Manager,  
Indian Overseas Bank,  
Main Branch, Vellore.

5. Noor Basha

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for a writ of certiorari, calling for the records of the 1<sup>st</sup> respondent in Ra.(SA)No.240 of 2010 and quash its order dated 01.06.2017 confirming the order of the 2<sup>nd</sup> respondent in SA No.64 of 2008 dated 23.04.2010.



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For Petitioner : Mr.P.Raghunathan  
for M/s.T.S.Gopalan & Co

For Respondents : Mr.F.B.Benjamin George (For R3 & R4)  
No Appearance (For R5)

**WP No.2081 of 2019**

Noor Basha

... Petitioner

Vs

1. Indirani Ammal

2. The Authorised Officer,  
Indian Overseas Bank,  
Regional Office, Kancheepuram.

3. The Branch Manager,  
Indian Overseas Bank,  
Main Branch, Vellore.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for a writ of certiorarified mandamus, calling for the records pertaining to the order dated 01.06.2017 in R.A.(SA)No.240 of 2010 on the file of DRAT, Chennai and quash the same consequentially direct the respondents to handover possession of the subject property to the petitioner within the time frame to be fixed by this Court

For Petitioner : No Appearance.

For Respondents : Mr.P.Raghunathan (For R1)  
for M/s.T.S.Gopalan & Co

Mr.F.B.Benjamin George (For R2 & R3)



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## COMMON ORDER

(Delivered by the Hon'ble Sunder Mohan J.)

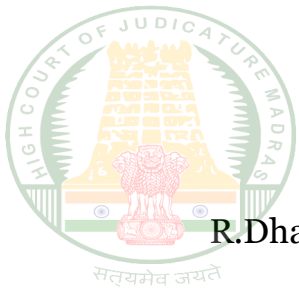
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All three writ petitions impugn the order dated 01.06.2017 passed by the Debts Recovery Appellate Tribunal, Chennai [hereinafter referred to as '**DRAT**']. The petitioners in all the writ petitions are aggrieved by the impugned order for different reasons, which we shall elaborate later. Since the impugned order is the same, all the writ petitions are taken up together.

2. Petitioner in WP No.15804 of 2017 is the borrower [hereinafter referred to as '**borrower**']. Petitioner in WP No.32845 of 2018 is the Authorised Officer of the Indian Overseas Bank [hereinafter referred to as '**bank**']. Petitioner in WP No.2081 of 2019 is the auction purchaser [hereinafter referred to as '**auction purchaser**'].

3. The brief facts leading to the filing of the writ petitions are as follows:

(a) On 17.05.2002, borrower availed a Housing Loan of Rs.6,50,000/- from the bank. On 01.12.2003, her husband one



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R.Dharmalingam availed a cash credit limit of Rs.5,00,000/-.

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(b) According to the bank, the borrower and her husband defaulted in the repayment of the loan and the property which was offered as security for both the loans, viz., house property at Plot No.10, Panneerselvam Street, Kalinjur Special Village Panchayat, Katpadi Taluk, Vellore District, was brought to sale.

(c) On 04.07.2005, bank issued a demand notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement Act, 2002 [hereinafter referred to as '**SARFAESI Act**'], calling upon the borrower to pay a sum of Rs.6,45,245/- as of 01.07.2004 together with interest at 14.5% per annum. Since the borrower did not make any payment, bank had issued an auction sale notice on 01.02.2006, fixing the date of sale as 06.03.2006.

(d) Auction purchaser was declared as a successful bidder for sale consideration of Rs.10,37,000/-.



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(e) On 26.09.2006, bank had executed a sale deed to the auction purchaser for a total sale consideration of Rs.10,37,000/-.

(f) Aggrieved by the sale deed executed by the bank and holding that the bank had violated the rules and the terms and conditions of the auction sale while executing the sale deed in favour of the auction purchaser, the borrower filed a writ petition in WP No.1351 of 2007 before this Court. This Court by order dated 11.01.2007, disposed of the writ petition by observing that the sale cannot be put under challenge in a writ petition.

(g) Borrower preferred an appeal in W.A.No.1032 of 2007, before the Division Bench of this Court. The Division Bench by order dated 10.08.2007 held that the correctness or otherwise of the auction conducted by the bank cannot be gone into by this Court under Article 226 of the Constitution of India and observed that it is open to the borrower to resort to the alternative remedy available.

(h) Borrower thereafter filed S.A.No.64 of 2008 before the Debts Recovery Tribunal – III, Chennai [hereinafter referred to as '**DRT**'],



praying for setting aside the sale in favour of the auction purchaser, as bank had committed a fraud in executing the sale deed contrary to the rules and the terms and conditions of the auction sale.

(i) The bank had filed their reply stating *inter alia* that they have not committed any fraud; that it was the borrower who had continuously defaulted in the repayment of loan; that Rule 8(8) of Security Interest (Enforcement) Rules, 2002 [hereinafter referred to as '**Rules**'] empowers secured creditors to sell the mortgaged property on mutually settled terms between the secured creditor and the purchaser and therefore, the delay in payment of the consideration by the auction purchaser would not be a ground to set aside the sale.

(j) The DRT by order dated 23.04.2010 held that auction purchaser was the highest bidder; that bank had not committed any fraud; that bank can exercise its right in choosing any one of the modes to sell its secured assets under Rule 8(5) of the said Rules and sale by a private treaty is one of the modes; and that therefore the action of the bank in entering into a



private treaty with the auction purchaser cannot be found fault with. The DRT also found that the borrower was a chronic defaulter and had not made any payments and therefore, her petition seeking to set aside the sale lacks merits and *bona fides*.

(k) The borrower aggrieved by the said order filed RA (SA) No.240 of 2010 before DRAT. On 01.06.2017, DRAT passed the impugned order by which it upheld the sale made in favour of the auction purchaser. However, DRAT had permitted the borrower to be in possession of the property, provided she makes a deposit of Rs.6,45,245/- with interest at the rate of 14.50% per annum from 04.07.2005 till 04.07.2017 with quarterly rests. DRAT also recorded that the borrower had deposited Rs.3,00,000/- on 20.08.2010 with the registry of the tribunal and directed the bank to withdraw the amount and adjust the same in the loan account. Borrower, as stated earlier, had filed the above writ petition challenging the said order.

(l) Auction purchaser and bank filed writ petitions challenging the order aggrieved by the portion of the order permitting the borrower to retain possession on payment of the aforesaid sum.



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4. This Court while hearing the writ petition on 23.06.2017 had recorded that the borrower had till then paid Rs.4,00,000/- to the bank and also directed the borrower to make further substantial payment. Thereafter, on proof of payment of Rs.15,00,000/- on 27.06.2017 by way of Demand Draft in favour of the bank, the co-ordinate bench of this Court granted interim stay of the impugned order. Borrower is still in possession of the property. The above facts are not disputed.

5. (i) Mr.Raghunathan, learned counsel for the borrower submitted:

(a) that the bank ought not to have executed the sale deed in favour of the auction purchaser since the auction purchaser had not made payments within the time stipulated under the rules and the terms and conditions of the auction sale notice;

(b) that the sale deed executed in favour of the auction purchaser dated 26.09.2006 would show that auction purchaser had not paid 25% of the bid amount as per Rule 9(3) of these rules on the same day and also did not pay the balance of the sale price within fifteen days and therefore the



bank ought to have resold the property again after forfeiting the deposit of auction purchaser;

(c) that the sale ought to have been construed only as an auction sale and not pursuant to a private treaty, since

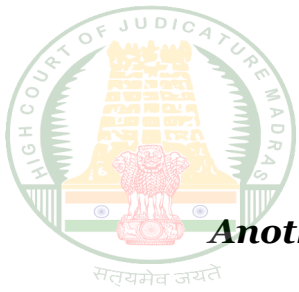
(i) the sale notice specified that an auction sale would be conducted;

(ii) the sale deed also states that the sale was pursuant to the auction sale; and

(iii) in the reply to the legal notice dated 25.03.2006 sent on behalf of the borrower, the bank's counsel had stated that the auction purchaser was the highest bidder and also that the property had been sold and would be delivered to auction purchaser on the payment of the balance amount;

(d) that in the said reply to the notice, it is not stated as to what amount was paid as advance or what was the balance sale consideration to be paid and that in any case, there was no reference to any private treaty between the bank and the auction purchaser for extending the time limit.

(ii). Learned counsel relied upon the judgment in ***General Manager, Sri Siddeshwara Cooperative Bank Limited and***



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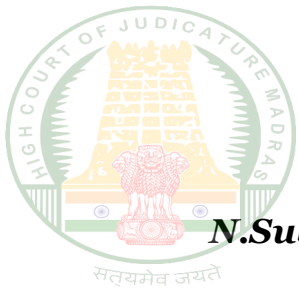
***Another v. Ikbal and others***<sup>1</sup>, wherein Rule 9(4) as it then existed was interpreted by the Hon'ble Supreme Court and held that the expression “*written agreements between the parties*” for extending the time limit for making the balance sale consideration could mean that the mutual agreement must be in writing and also held that the word “*parties*” for the purpose of Rule 9(4) of the Rules would mean the secured creditor, borrower and the auction purchaser and submitted that therefore in the absence of any consent by the borrower, the bank ought not to have extended any time limit by a private treaty and executed a sale deed after six months.

6. (i) Mr.Benjamin George, learned counsel for the bank, *per contra* submitted that the borrower was a chronic defaulter and had challenged the sale belatedly only to prevent the bank from realising its dues; that the sale cannot be set aside for minor deviation of rules unless prejudice is caused to the borrower and there is a fundamental procedural error. He relied upon the judgments of the Hon'ble Supreme Court in ***Celir LLP v. Sumati Prasad Bafna and Others***<sup>2</sup> and ***S.Karthik and Others v.***

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1 (2013) 10 SCC 83

2 2024 SCC OnLine SC 3727



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**N.Subhash Chand Jain and Others<sup>3</sup>** in support of his submission.

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(ii) The learned counsel further submitted that DRT ought not to have even entertained the application filed by the borrower on merits since the condone delay petition of the borrower was allowed without any notice to bank; that the bank was empowered to sell the secured assets by a private treaty in terms of rule 8(5) of the said Rules; and that there was no necessity for obtaining the consent of the borrower for entering into a private treaty as that would defeat the very purpose of the SARFAESI Act and the rules which were enacted only to enable the secured creditor to realise the money in an expeditious manner. He would also point out that by amending Rule 9(4) by adding the words, “*as may be agreed upon in writing between the purchaser and the secured creditor, in any case not exceeding three months*”, in the year 2016, the intent of the legislature was made clear to exclude the borrower in a private arrangement between the bank and the auction purchaser. He therefore would submit that the impugned order insofar as it confirms the sale in favour of the auction purchaser, must be confirmed and consequentially, the portion of the impugned order permitting borrower to retain possession has to be set

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<sup>3</sup> (2022) 10 SCC 641



aside.

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7. (i) Auction purchaser, as stated earlier, had filed WP No.2081 of 2019. There was no representation for her on 04.06.2025 and even today. Therefore, we propose to dispose of the said writ petition also on merits, since the grounds raised are similar to the ones raised by the bank.

(ii) The auction purchaser in his affidavit had referred to the sale deed executed by the bank after receipt of the entire sale consideration. He had stated that the DRT had rightly dismissed the application of the borrower and that the order of DRAT in permitting borrower to retain possession twelve years after the sale deed in favour of the auction purchaser is illegal and liable to be set aside, especially after having found that the sale is valid.

8. It is not in dispute that the bank had declared the auction purchaser as the successful bidder on 06.03.2006. The sale price was fixed at Rs.10,37,000/-. The sale deed was executed on 26.09.2006. In the sale deed, the payments made by auction purchaser are detailed and the same is



extracted below for ease of reference.

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| <b>Sl.No.</b> | <b>Date of Payment</b> | <b>Mode of Payment</b> | <b>Amount (Rs.)</b> |
|---------------|------------------------|------------------------|---------------------|
| 1             | 27.02.2006             | Demand Draft (for EMD) | 5,000/-             |
| 2             | 08.03.2006             | Demand Draft           | 75,000/-            |
| 3             | 11.03.2006             | Demand Draft           | 1,20,000/-          |
| 4             | 15.03.2006             | Demand Draft           | 60,000/-            |
| 5             | 29.03.2006             | Demand Draft           | 2,25,000/-          |
| 6             | 07.08.2006             | Demand Draft           | 5,00,000/-          |
| Total         |                        |                        | 9,85,000/-          |

The balance sum of Rs.52,000/- was paid in cash on 26.09.2006.

9. Thus, the auction purchaser had neither made the deposit of 25% of the sale price on the very same day or on the next working day, as required under Rule 9(3) of the Rules nor paid the balance sale consideration within fifteen days as required under Rule 9(4) of the Rules.

Rules 9(3) and 9(4) as it then stood read as follows:

“9(3) On every sale of immovable property, the purchaser shall immediately, i.e. on the same day or not later than next working day, as the case may be, pay a deposit of twenty five per cent of the amount of the sale price, which is inclusive of earnest money deposited, if any, to the authorised officer conducting the sale and in default of such deposit, the property shall be sold again.

9(4) The balance amount of purchase price payable shall be paid by the purchaser to the authorised officer on or before the fifteenth day of confirmation of sale of the immovable property or such



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extended period, as may be agreed upon in writing between the parties.”

Therefore, there is violation of the rules, admittedly.

10. It is the case of the bank that they are minor deviations and it is not for the borrower, who was a defaulter, to question the sale on account of these deviations. It is also their submission that in any case, the bank treated the sale as a private treaty and executed a sale deed and therefore, it cannot be construed as an auction sale. We would deal with the second argument first.

11. Concededly, the sale price of Rs.10,37,000/- was fixed pursuant to an auction sale on 06.03.2006. Bank in its recitals in the sale deed executed in favour of the auction purchaser, also had stated that the sale was pursuant to the auction sale conducted on 06.03.2006. The relevant portion in the sale deed reads as follows:

“அவ்வாறு வங்கியில் பொறுப்பில் இருந்து வந்த சொத்தை 06.03.2006, அன்று வங்கியால் ஏலம் விடப்பட்டது. தாங்கள் கீழ்க்கண்ட சொத்தை ஏலம் எடுத்த கிரையத் தொகை ரூபாய் 10,37,000.00.....”

12. That apart, the borrower through his lawyer on 23.03.2006 had



requested the bank to grant six months time to repay the loan and stall further proceedings till then. Bank on 25.03.2006 had replied through its counsel and stated that the property had been sold to the auction purchaser pursuant to the auction sale conducted on 06.03.2006. Bank had neither stated anything about the noncompliance with the rules, viz., Rules 9(3) and 9(4) stated above by the auction purchaser, nor about any so called private treaty entered into between the bank and the auction purchaser.

13. Bank in their reply to the application filed by borrower before DRT, had not stated that the averments in the reply notice were made by their lawyer without instructions. Bank had only stated in para 19 of the reply statement that a hyper-technical approach cannot be made in legal matters and in fact, had stated that Rule 8(8) empowers secured creditors to sell the property on mutually settled terms between them and the auction purchaser. Even in the reply, there is no positive averment that the sale deed in favour of the auction purchaser was pursuant to a private treaty between the bank and auction purchaser.

14. It is no doubt true that under Rule 8(5) of the Rules, the bank can sell its secured assets by any of the four methods, which include public



auction and a private treaty. Bank had chosen to exercise its option to sell the property by holding the public auction in terms of rule 8(5)(c). If the sale by the said method fails, the property can be resold by any one of the methods mentioned in sub-rule 5 to Rule 8, including by a private treaty, subject to the compliance of the Rules.

15. Thus, even assuming that the sale by the public auction failed and therefore it was sold by a private treaty, as claimed by the bank, this cannot be done unless notice is issued once again exercising the option to sell the property by private treaty, as per the proviso to Rule 9(1) of the said Rules. Admittedly in this case, no such procedure was followed. Therefore, we are of the view that bank had treated it as a sale pursuant to public auction and their stand that the sale deed was executed pursuant to a private treaty, is an afterthought.

16. That apart, any extension of time by the bank to the auction purchaser ought to have been with the consent of borrower, as any extension given would affect his right and also deprive him of his opportunity to make the payment within the extended time. For instance, in this case borrower in her lawyer's notice sought six months time to make



the payment. Instead of granting six months time to the borrower, bank chose to grant six months time to auction purchaser to pay the balance sale consideration in violation of all the rules. Though we do not find any material to accuse bank of fraud as alleged by borrower, we find that the bank's action in granting six months time to the auction purchaser and executing the sale deed is far from being reasonable.

17. As regards the second submission that a mere deviation of the rules would not render the sale invalid, bank relied upon the judgment of the Hon'ble Supreme Court in ***Celir LLP's case*** (supra). The relevant observations relied upon by the bank read as follows:

“218. Any sale by auction or other public procurement methods once already confirmed or concluded ought not to be set-aside or interfered with lightly except on grounds that go to the core of such sale process, such as either being collusive, fraudulent or vitiated by inadequate pricing or underbidding. Mere irregularity or deviation from a rule which does not have any fundamental procedural error does not take away the foundation of authority for such proceeding. In such cases, courts in particular should be mindful to refrain entertaining any ground for challenging an auction which either could have been taken earlier before the sale was conducted and confirmed or where no substantial injury has been caused on account of such irregularity.”



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18. In ***Celir LLP's case*** (supra), Hon'ble Supreme Court was dealing with a contempt petition and in the relevant portion which is extracted above, had held that mere irregularity which does not have any fundamental procedural error cannot be a ground for setting aside the sale.

19. The learned counsel for the bank also relied upon the judgment of the Hon'ble Supreme Court in ***Karthik's case*** (supra) wherein the dismissal of the petition of the borrower seeking to set aside the sale was confirmed by the Hon'ble Supreme Court.

20. The decision of the Hon'ble Supreme Court in ***S.Karthik's case*** (supra) was rendered on the facts of that case wherein the violation alleged was that the second sale notice was issued within thirty days of the time prescribed under Rule 9(1) of the Rules. In those facts, the Hon'ble Supreme Court held that there was no necessity for the bank to once again provide a thirty days' clear notice since the Court found that the second sale notice was in continuation of the proceedings of the first sale notice.



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21. In fact the Hon'ble Supreme Court in ***Manilal Mohanlal Shah and Others v. Sardar Sayed Ahmed Sayed Mahmud and Another***<sup>4</sup>, while considering Order XX1 Rules 84 and 85 of Code of Civil Procedure, which are in *pari materia* with Rules 9 (3) and 9(4) of the said Rules, held that the provisions are mandatory and any violation would render the sale invalid. The relevant observations are extracted below.

“13. Having examined the language of the relevant rules and the judicial decisions bearing upon the subject we are of opinion that the provisions of the rules requiring the deposit of 25% of the purchase-money immediately, on the person being declared as a purchaser and the payment of the balance within 15 days of the sale are mandatory and upon non-compliance with these provisions there is no sale at all. The rules do not contemplate that there can be any sale in favour of a purchaser without depositing 25% of the purchase-money in the first instance and the balance within 15 days. When there is no sale within the contemplation of these rules, there can be no question of material irregularity in the conduct of the sale. Non- payment of the price on the part of the defaulting purchaser renders the sale proceedings as a complete nullity. The very fact that the Court is bound to resell the property in the event of a default shows that the previous proceedings for sale are completely wiped out as if they do not exist in the eye of the law. We hold, therefore, that in the circumstances of the present case there was no sale and the purchasers acquired no rights at all.”

This judgment was followed in ***Balaram v. Ilam Singh***<sup>5</sup>.

22. In our view the error committed by the bank is a fundamental procedural error. Firstly, because auction purchaser had not paid 25% of

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4 (1954) 1 SCC 349

5 (1996) 5 SCC 705



the sale price on the day of bidding, which would render the sale invalid and the property ought to have been sold once again. Secondly, the balance sale consideration was not paid within fifteen days in terms of Rule 9(4). Any extension given by bank must be pursuant to a written agreement between the parties i.e., borrower, auction purchaser and the bank. This was the view taken by the Hon'ble Supreme Court in ***Sri Siddeshwara Cooperative Bank Limited's case*** (supra) on the interpretation of Rule 9(4) as it then existed. The relevant portion of the judgment is extracted hereunder.

“14. A reading of sub-rule (1) of Rule 9 makes it manifest that the provision is mandatory. The plain language of Rule 9(1) suggests this. Similarly, Rule 9(3) which provides that the purchaser shall pay a deposit of 25% of the amount of the sale price on the sale of immovable property also indicates that the said provision is mandatory in nature. As regards balance amount of purchase price, sub-rule (4) provides that the said amount shall be paid by the purchaser on or before the fifteenth day of confirmation of sale of immovable property or such extended period as may be agreed upon in writing between the parties. The period of fifteen days in Rule 9(4) is not that sacrosanct and it is extendable if there is a written agreement between the parties for such extension. What is the meaning of the expression ‘written agreement between the parties’ in Rule 9(4)? The 2002 Rules do not prescribe any particular form for such agreement except that it must be in writing. The use of term ‘written agreement’ means a mutual understanding or an



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arrangement about relative rights and duties by the parties. For the purposes of Rule 9(4), the expression “written agreement” means nothing more than a manifestation of mutual assent in writing. The word ‘parties’ for the purposes of Rule 9(4) we think must mean the secured creditor, borrower and auction purchaser.

.....

19. There is no doubt that Rule 9(1) is mandatory but this provision is definitely for the benefit of the borrower. Similarly, Rule 9(3) and Rule 9(4) are for the benefit of the secured creditor (or in any case for the benefit of the borrower). It is settled position in law that even if a provision is mandatory, it can always be waived by a party (or parties) for whose benefit such provision has been made. The provision in Rule 9(1) being for the benefit of the borrower and the provisions contained in Rule 9(3) and Rule 9(4) being for the benefit of the secured creditor (or for that matter for the benefit of the borrower), the secured creditor and the borrower can lawfully waive their right. These provisions neither expressly nor contextually indicate otherwise. Obviously, the question whether there is waiver or not depends on facts of each case and no hard and fast rule can be laid down in this regard.

20. The letter dated 13.11.2006 sent by the borrower to the Bank leaves no manner of doubt that the borrower had waived his right under Rule 9(1) or for that matter under Rule 9(3) and Rule 9(4) as well.”

23. The Hon'ble Supreme Court held that the provisions are mandatory in nature. The extension, if any, granted by the bank to the



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auction purchaser by way of a private treaty ought to have been with the written consent of the borrower. On the facts of that case, the Hon'ble Supreme Court found that the written agreement between the borrower and the bank can be implied.

24. In this case, the borrower had never waived her right under Rules 9(1), 9(3) and 9(4) of the said Rules. Therefore, in view of the aforesaid observations of the Hon'ble Supreme Court, the violations cannot be construed as mere deviations as contended by the bank. They are fundamental procedural errors which renders the sale invalid.

25. The other submission by the learned counsel for the bank is that DRT ought not to have entertained the SA since the delay was condoned without notice to the bank. We are unable to accept this submission for two reasons. Firstly, Bank had not challenged the order passed in the condone delay petition. Secondly, much water had flown under the bridge. DRT, infact, rejected the application of the borrower and it was the DRAT which had permitted the borrower to be in possession on payment of the principal sum with interest.



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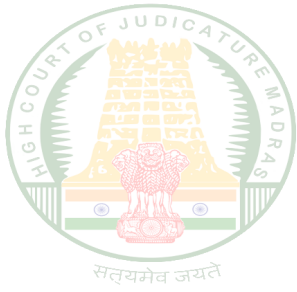
26. Therefore, for the aforesaid reasons, we find that the sale in favour of the auction purchaser deserves to be set aside and it is accordingly set aside.

27. We are informed that the borrower had so far paid Rs.19 lakhs. It is up to the borrower to negotiate with the bank if there is any outstanding payable and redeem the property. We express no opinion.

28. In order to secure the ends of justice, we direct the bank to refund the sale consideration paid by the auction purchaser with interest at the rate of 6% per annum from the date of making payment till it is paid to the auction purchaser.

29. Counsel for the borrower presses for costs. In the facts and circumstances of the case, we are of the view that he is justified in making the request. We quantify the costs at Rs.1,00,000/-.

30. Accordingly, the bank is directed to pay Rs.1,00,000/-[Rupees One Lakh only] as costs to the borrower within a period of two weeks from the date of uploading this order.



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31. With the above observations, the writ petition of the borrower [W.P.No.15804 of 2017] is allowed. The writ petition filed by the bank [W.P.No.32845 of 2018] is dismissed with costs, as stated above and writ petition filed by the auction purchaser [W.P.No.2081 of 2019] is disposed of. Consequently, interim applications stand closed.

(K.R.SHRIRAM, C.J.)  
10.07.2025

(SUNDER MOHAN, J.)

Index : Yes/No  
NC : Yes/No  
ars



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W.P.Nos. 32845 of 2018, 15804 of 2017 and 2081 of 2019

**THE HON'BLE CHIEF JUSTICE**  
**AND**  
**SUNDER MOHAN,J.**

ars

To

1. The Chairperson,  
Debts Recovery Appellate Tribunal,  
IV Floor, Indian Bank,  
Circle Office, 55, Ethiraj Salai,  
Chennai – 600 008.
2. The Presiding Officer,  
Debts Recovery Tribunal-III,  
5<sup>th</sup> Floor, Dewa Towers,  
770, Anna Salai, Chennai – 600 002.
3. The Authorised Officer,  
Indian Overseas Bank,  
Regional Office, Kancheepuram.
4. The Branch Manager,  
Indian Overseas Bank,  
Main Branch, Vellore.

Pre-delivery common order in  
W.P.Nos.32845 of 2018, 15804  
of 2017, and 2081 of 2019

10.07.2025