



W.P(MD)No.15476 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 07.02.2025

CORAM :

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P(MD)No.15476 of 2024
and
W.M.P(MD)Nos.13533 and 13534 of 2024**

N.Paluthai

... Petitioner

vs.

1.The Recovery Officer-II,
Office of the Recovery Officer,
Debts Recovery Tribunal,
Madurai.

2. The Authorised Officer,
Tamil Nadu Mercantile Bank,
Theni Branch, Theni District.

3. The Sub Registrar,
Theni, Theni District.

... Respondents

(R2 and R3 are impleaded vide court order dated 20.01.2015 in WMP(MD)No.19857/2024 in W.P(MD)No.15476/2024)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in RC.No.50/2018 dated 27.06.2024 on the file of the 1st respondent and quash the same as



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illegal and further directing the respondent to issue sale certificate to the petitioner for the property in R.S.No.138/1B situated in Unjampatti Village, Theni Taluk and District measuring to an extent of 42 cents.

For Petitioner : Mr.K.Jeyamohan
For R2 : Mr.N.Dilipkumar
For R3 : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

(Order of the Court was made by **J.NISHA BANU, J.**)

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in RC.No.50/2018, dated 27.06.2024, on the file of the 1st respondent and quash the same as illegal and direct the 1st respondent to issue a sale certificate to the petitioner in respect of the property in R.S.No.138/1B, situated in Unjampatti Village, Theni Taluk and District, measuring to an extent of 42 cents.

2. In connection with SARFAESI proceedings, the 1st respondent called for an auction in respect of the abovesaid property. The petitioner participated in the auction process, by depositing the



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EMD amount to the tune of Rs.3,70,000/-, Subsequently, she participated in the E-auction, wherein, she was declared as the highest bidder by the 1st respondent, vide communication dated 25.04.2024. As per the auction conditions, the petitioner was directed to deposit 25% of the bid amount namely, Rs.7,30,000/- immediately on the next day of the auction and to deposit the remaining 75% of the bid amount along with poundage fee of 1%, which would amount to a total sum of Rs 33,44,010/-, within a period of 15 days from the date of sale, i.e., on or before 10.05.2024. On 13.05.2024, the petitioner paid a sum of Rs. 1,00,000/- as cash and transferred a sum of Rs.20,00,000/- to the 1st respondent because of the maximum transaction limit in her bank account. Therefore, on the very next day, i.e., on 14.05.2024, the petitioner transferred the balance amount of Rs.11,00,000/- to the 1st respondent. When the petitioner was hopeful that the 1st respondent would accept her payments and would issue the sale certificate, to her shock and surprise, she received a communication from the 1st respondent dated 27.06.2024, informing that since the petitioner did not pay the balance amount on or before 10.05.2024, 25% of her bid amount is forfeited to the Government, after defraying the expenses of the sale,



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as per Rule 58 of Recovery of Debts and Bankruptcy, Rules 1993.

Aggrieved by the said order, the petitioner has filed this writ petition.

3. Heard both sides.

4. Admittedly, E-Auction has been conducted on 25.04.2024 and the petitioner has paid 25% of the bid amount on the very next day. As per the auction conditions, the petitioner shall pay the balance 75% of the bid amount along with poundage fee, within a period of fifteen days from the date of auction i.e., on or before 10.05.2024. It is the specific averment of the petitioner that though she had the said amount, she could not deposit the same, since the transaction limit of her Bank Account could not be increased by the Bank Manager. The subsequent dates namely, 11.05.2024 and 12.05.2024 were bank holidays. Thereafter, the petitioner paid the balance 75% of the bid amount on two spells namely, 13.05.2024 and 14.05.2024 as stated above. The act of the petitioner in paying the balance 75% of the bid amount immediately after 10.05.2024, reflects bona fide. The petitioner's reason for the belated payment of 75% bid amount on 13th and 14th May 2025 was only due



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to the intervening bank holidays and due to the transaction ceiling limit of the petitioner's account. In our view, the said delay ought to have been condoned by the 1st respondent, whereas, citing the default clause, they have issued the impugned communication, regarding forfeiture of 25% of the bid amount. Therefore, ends of justice would be met by setting aside the impugned order.

5. Accordingly, the Writ Petition is allowed and the impugned order passed by the 1st respondent in RC.No.50/2018, dated 27.06.2024, is quashed and the 1st respondent is directed to issue a sale certificate to the petitioner in respect of the auctioned property, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

[J.N.B, J.] [S.S.Y, J.]
07.02.2025

Index : Yes / No
Neutral Citation : Yes / No
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J.NISHA BANU, J.
AND
S.SRIMATHY, J.

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ORDER MADE IN
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DATED : 07.02.2025