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W.P.No.20631 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.20631 of 2026
and W.M.P.No.22193 of 2026

V.Raghupathy
S/o.Venkidasamy
D.No.60, Vivekananda Street,
Ramakrishnapuram, Ganapathy,
Coimbatore - 641 006.

Petitioner

Vs

1.The Authorised officer
Canara Bank,
ARMB Branch
No.661/1,
Gujarati Samaj Building,
Mettupalayam Road,
Coimbatore - 641 002.

2.The Manager,
Canara Bank,
Ganapathy Branch,
Coimbatore.

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India

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seeking issuance of a writ of mandamus to direct respondent No.1 herein to repay the EMD amount of a sum of Rs.26,00,000/- (Rupees Twenty-Six Lakhs only) with the interest at the rate of 12% from the date of payment to till realization.

For Petitioner: Mr.P.Vetrivel

For respondents: Mr.R.Sreedhar

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

Heard the learned counsel appearing for the parties.

2. This writ petition under Article 226 of the Constitution of India has been filed by the petitioner seeking issuance of a writ of mandamus to direct respondent No.1 herein to repay the EMD amount of sum of Rs.26,00,000/- (Rupees Twenty-Six Lakhs only) with interest at the rate of 12% from the date of payment to till realization.

3. The case of the petitioner is that he participated in the e-auction conducted by the first respondent/bank by remitting Rs.10,30,000/- (Rupees ten lakh thirty thousand only) on



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7.11.2024. The petitioner was declared as highest bidder for the bid amount of Rs.1,04,00,000/- (Rupees one crore four lakhs only).

The petitioner was called upon to remit 25% of the bid amount after deducting the EMD amount deposited and thereupon, the petitioner had paid a sum of Rs.15,70,000/- on 14.11.2024. Thus, the petitioner, in all, paid a sum of Rs.26,00,000/-.

4. The petitioner had applied for loan with the second respondent Bank to pay the remaining sale consideration/bid amount. On 13.02.2025, the second respondent informed the petitioner that his loan application had been rejected on the ground that the subject property was already under attachment with the Employees Provident Fund. On 14.02.2025, the first respondent had informed the petitioner that the 25% of the bid amount paid by him was forfeited as he failed to make the payment of balance 75% of the bid amount.

5. Learned counsel for the petitioner submits that neither the sale notice nor any communication issued by the first respondent/bank had disclosed the existence of such attachment



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prior to the auction proceedings and had he been informed about such attachment, he would not have taken part in the e-auction itself. The petitioner had sent a representation dated 01.03.2025 seeking refund of the amount deposited, however, no order came to be passed by the first respondent. Further, the first respondent had issued a fresh sale notice dated 27.04.2026 proposing to conduct the fresh e-auction on 04.06.2026. Therefore, he pleads that 25% of the bid amount paid by the petitioner, which has been forfeited, be directed to be refunded.

6. It is not in dispute that proceedings were initiated by the first respondent/bank invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Therefore, in our considered opinion, the petitioner has to approach the Debts Recovery Tribunal assailing the measures initiated by the first respondent/bank, including forfeiture of the amount deposited by him.

7. An identical issue was considered by the Supreme Court in



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*Agarwal Tracom (P) Ltd. v. Punjab National Bank*¹. For ease of reference, the issue framed by the Supreme Court is reproduced hereunder:

*"17. The short question that arises for consideration in this appeal is **whether the High Court was justified in holding that the remedy of the appellant (auction-purchaser) lies in challenging the action of the secured creditor (PNB) in forfeiting the deposit by filing an application under Section 17 of the Sarfaesi Act before the DRT or the remedy of the auction-purchaser is in filing the writ petition under Articles 226/227 of the Constitution of India to examine the legality of such action?**"*

[emphasis supplied]

8. After referring to various provisions of the SARFAESI Act and the Rules framed thereunder, the Supreme Court, in the said decision, emphatically held thus:

*"28. We also notice that **Rule 9(5) confers express power on the secured creditor to forfeit the deposit made by the auction-***

¹ (2018) 1 SCC 626



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purchaser in case the auction-purchaser commits any default in paying instalment of sale money to the secured creditor. Such action taken by the secured creditor is, in our opinion, a part of the measures specified in Section 13(4) and, therefore, it is regarded as a measure taken under Section 13(4) read with Rule 9(5). In our view, the measures taken under Section 13(4) commence with any of the action taken in clauses (a) to (d) and end with measures specified in Rule 9.

29. In our view, therefore, ***the expression "any of the measures referred to in Section 13(4) taken by secured creditor or his authorised officer" in Section 17(1) would include all actions taken by the secured creditor under the Rules which relate to the measures specified in Section 13(4).***

30. ***The auction-purchaser (appellant herein) is one such person, who is aggrieved by the action of the secured creditor in forfeiting their money. The appellant, therefore, falls within the expression "any person" as specified under Section 17(1) and hence is entitled to***



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challenge the action of the secured creditor (PNB) before the DRT by filing an application under Section 17(1) of the Sarfaesi Act.

33. In the light of the foregoing discussion, we are of the considered opinion that the writ court as also the appellate court were justified in dismissing the appellant's writ petition on the ground of availability of alternative statutory remedy of filing an application under Section 17(1) of the Sarfaesi Act before the Tribunal concerned to challenge the action of PNB in forfeiting the appellant's deposit under Rule 9(5). ...

34. The appellant is, accordingly, granted liberty to file an application before the Tribunal concerned (DRT) under Section 17(1) of the Sarfaesi Act, which has jurisdiction to entertain such application within 45 days from the date of this order. In case, if the appellant files any such application, the Tribunal shall decide the same on its merits in accordance with law uninfluenced by any of the observations made by this Court and the High Court in the impugned judgment. ... "

[emphasis supplied]



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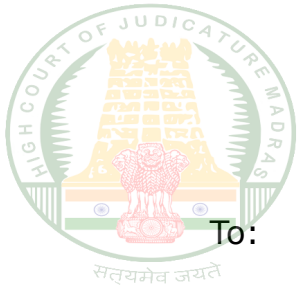
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9. In the light of the authoritative pronouncement of the Supreme Court in the aforesaid decision, which squarely answers the issue raised in the present writ petition, we dismiss the writ petition with liberty to the petitioner to approach the Debts Recovery Tribunal. If the petitioner approaches the Debts Recovery Tribunal, the period of limitation shall be reckoned by excluding the period spent by the petitioner in this court for pursuing the writ petition.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(SUSHRUT ARVIND DHARMADHIKARI, CJ) (G.ARUL MURUGAN,J)
08.06.2026

Index : Yes/No
Neutral Citation : Yes/No
ssk/sasi



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