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W.P.No.19503 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.19503 of 2024

M.Emayavaramban,
S/o.Mahendran,
No.1, Kallar Street, Kallukuzhi,
Jamal Mohammed College,
Tiruchirappalli District - 620 020.

Petitioner(s)

Vs

1. The Authorised Officer,
Indian Overseas Bank,
Regional Office, Chennai II Annexe Building,
3rd Floor, 763, Anna Salai,
Chennai - 600 002.
2. The Chief Manager,
Indian Overseas Bank,
Ekkatuthangal Branch, No.32,
Defence Officers Colony, Ekkatuthangal,
Chennai - 600 032.
3. T.Vikram,
Proprietor, M/s.The Radicals,
T-72, I Floor, Kamar Street, Thiru. Nagar,
Jafferkhanpet, Chennai - 600 083.

Respondent(s)



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PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing respondents 1 and 2 to forthwith refund the sale consideration of Rs.21,00,000/- paid by the petitioner for purchase of the property situated in R.S.No.27/B/4 and 34/5 Plot No.27-B, Kamarajar Street, Iyappan Nagar, K.Sathanur Village, Srirangam Taluk, Tiruchirappalli District vide their E-Auction Sale notice dated 05.10.2019 and 03.11.2019 along with appropriate interest calculated from 09.12.2019 til date of payment.

For Petitioner(s): Mr.Prashanth Nadaraj.B.

For Respondent(s):Mr.F.B.Benjamin George
for R1 and R2

ORDER

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

The petitioner has approached this court invoking the extraordinary jurisdiction under Article 226 of the Constitution of India seeking issuance of a writ of mandamus to direct respondent Nos.1 and 2 to forthwith refund the entire sale consideration of Rs.21,10,000/- paid by him towards the purchase of the secured asset during an e-auction sale, along with interest calculated from 09.12.2019 until the date of actual payment.



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2.1. The third respondent had availed financial assistance from the respondent/bank and the said loan account was ultimately declared as a Non-Performing Asset (NPA) on 08.10.2010. For recovery of its dues, the respondent bank set the machinery of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [SARFAESI Act, 2002] into motion. Pursuant to an auction notice issued on 03.11.2019, the petitioner participated in the e-auction held on 21.11.2019. Being the highest bidder, his bid of Rs.21,10,000/- was accepted, the entire consideration was timeously remitted, and a sale certificate was executed on 16.12.2019, followed by its registration on 09.01.2020 as Document No.101 of 2020 before the Sub-Registrar, K.Sathanur.

2.2. However, the third respondent (borrower) impugned the auction sale before the Debts Recovery Tribunal-II, Chennai [DRT] in S.A.No.442 of 2019. Vide order dated 30.09.2022, the DRT allowed the Securitisation Application, rendering a scathing finding that the respondent bank had acted in a covert manner to prefix the sale in favour of the petitioner. Consequently, the sale and the sale



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certificate were set aside. This order of the Tribunal has indisputably attained finality, with no appeal being preferred.

2.3. Stripped of the title and deprived of physical possession of the property, the petitioner sent a representation dated 12.08.2023 to the respondent bank seeking refund of the sale consideration with interest. The respondent/bank chose to maintain a stoic silence, forcing the petitioner to file this writ petition.

3. Learned counsel for the petitioner submitted that the petitioner is a *bona fide* purchaser and only when the petitioner requested the respondent/bank to hand over the possession of the property, he came to know that the challenge to the sale, at the instance of the borrower, is pending consideration before the DRT. Although the petitioner fully complied with the respondent/bank's payment directives, the sale consideration has not yet been repaid. Since the DRT set aside the sale, the entire amount with interest must be returned without delay.



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4. Learned counsel for the respondent/bank submitted that the debt has been assigned to an Asset Reconstruction Company and, therefore, the mandamus sought in this writ petition cannot be issued. He further submitted that the auction purchaser must be relegated to the DRT.

5. While the respondent/bank and the ARC may have internal inter-se agreements, the same cannot curtail or defeat the constitutional and statutory rights of an innocent auction purchaser. When an auction sale is set aside by the DRT, the very substratum of the transaction disappears. The bank cannot retain the sale consideration under the cloak of an invalidated sale. The respondent/bank cannot be allowed to enrich themselves unjustly at the expense of the petitioner/auction purchaser. Once the sale was declared void, the status quo ante must be restored and the bank cannot be permitted to retain the money without lawful justification. Since the petitioner remitted the full sale price in December 2019, forcing him to approach the Tribunal at this stage would, in our considered opinion, be entirely inappropriate.



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6. The respondent bank has enjoyed the usufructs of the petitioner's principal amount of Rs.21,10,000/- since December 2019. Depriving the petitioner of his money while the bank kept it in its coffers demands compensatory interest to mitigate the financial injury inflicted upon him.

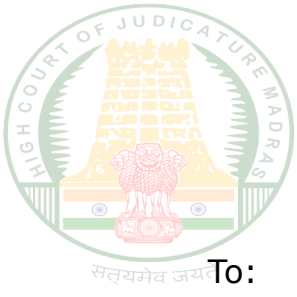
7. For the reasons detailed herein above, the writ petition is allowed. Respondents 1 and 2 are directed to refund the sum of Rs.21,10,000/- to the petitioner within a period of four weeks from the date of receipt of a copy of this order. The respondent bank shall also pay interest at the rate of 9% per annum on the said principal amount, calculated from the date of complete deposit (09.12.2019) until the date of actual realization.

There shall be no order as to costs.

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

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Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

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