
(2013) 06 MAD CK 0259
In the Madras High Court
Case No : Writ Petition No. 31645 of 2012

M. Soundarapandian

APPELLANT

Vs

Syndicate Bank

RESPONDENT

Date of Decision : 20-06-2013

Acts Referred:

Citation : (2013) 8 MLJ 141

Hon'ble Judges : M.M. Sundresh, J;M. Jaichandren, J

Bench : Division Bench

Advocate : P.J. Rishikesh, for the Appellant; P. Sreenivasalu, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Sundresh, J.—This Writ Petition has been filed by the petitioner, who is the auction purchaser, in the auction held on 26.6.2012, seeking to set aside the proceedings of the respondent, dated 13.11.2012, with a consequential prayer to refund the proportionate amount on the sale consideration collected from him. The petitioner, along with, 19 others, took part in the auction held on 26.6.2012. The auction was on the basis of "as is where is" condition. The property, confirmed in favour of the petitioner, was shown to have an extent of 5450 sq. ft. The petitioner raised a doubt before participating in the auction about the extent. However, he took part in the auction which was confirmed in his favour. On 9.7.2012, he had remitted the balance amount. The said balance amount was remitted after the measurement of the property by the Deputy Surveyor, Ooty Taluk, in the presence of the bank officials of the respondent, and the representative of the petitioner, one Mr. Rajendran.

2. After the confirmation of sale, the petitioner gave a representation on 6.11.2012 stating that the property confirmed in his favour contains only an extent of 4412.6 sq. ft. and not 5450 sq. ft. as published earlier. Therefore, in the said representation, the petitioner had sought for proportionate adjustment from the respondent. The request of the petitioner was rejected by the impugned

notice dated 13.11.2012 on the ground that the petitioner purchased the property after satisfying the nature of the property, the title deeds, and other documents; the sale had been effected subject to the condition "as is where is" condition; therefore, the request of the petitioner could not be considered. Being aggrieved against the said order, the present writ petition has been filed.

3. The facts narrated above would disclose that the auction had been conducted on the basis of "as is where is" condition. The petitioner was aware of the extent of the property. The petitioner, in spite of making an objection, took part in the auction. The said fact itself would show that he was aware of the extent of the property confirmed in his favour. Furthermore, the property was measured in the presence of the petitioner, at the time of making the remaining balance amount. Therefore, we do not find any reason to interfere with the order impugned, as the petitioner was aware of the nature of the property and the extent mentioned therein. Even though as per the report filed by the respondent before this Court to the effect that the extent as found in the property confirmed in favour of the petitioner is only 4412.6 sq. ft. or, 10.1 cents, inasmuch as the petitioner has purchased the property, after proper inspection and after knowing the extent, we do not find any reason to allow the writ petition. Accordingly, the writ petition stands dismissed. No costs. M.P. No. 1 of 2011 is closed.