

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 1/7/2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. Nos.15351 to 15353 of 2015

and

M.P. Nos.1, 1 and 1 & 2, 2 and 2 of 2015

M/s. Clariya Marketing Services
Pvt. Ltd

rep. By its Director
Shaju Krishnan Nair
Shop No.23, Dam Road
Near Saibaba Circle
Hospet 583 201.

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Petitioner in WP No.15351/2015

M/s. Clariya Steels Pvt. Ltd

rep. By its Director,
Shaju Krishnan Nair
Shop No.23, Dam Road
Near Saibaba Circle
Hospet 583 201.

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Petitioner in WP No.15352/2015

M/s. Clariya Enterprises,

rep. By its Proprietor,
Shaju Krishnan Nair
Shop No.23, Dam Road
Near Saibaba Circle
Hospet 583 201.

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Petitioner in WP No.15353/2015

सत्यमेव जयते
Vs.

Bank of India

rep. By its Authorised Officer/
Chief Manager Mr.N.Chandrasekar
Zonal Office
No.11 Kempegowda Road
Bangalore 560 009.

..Respondent in all the petitions

Prayer in W.P.No.15351 of 2015:-Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of certiorarified mandamus to call for the records on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai relating to the impugned order dated 1/10/2014 made in CrI.M.P.No.5182 of 2014

and quash the same and forbear the respondent from initiating any further action to auction the petition property consequent to the possession taken over by the Advocate Commissioner on 9/5/2015 and direct the respondents to grant 3 months time for settling the balance outstanding amount of Rs.65 lakhs with nominal bank interest in accordance with the One Time Settlement offered by the respondents by their letter dated 16/2/2015.

Prayer in W.P.No.15352 of 2015:-Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of certiorarified mandamus to call for the records on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai relating to the impugned order dated 1/10/2014 made in Crl.M.P.No.5182 of 2014 and quash the same and forbear the respondent from initiating any further action to auction the mortgaged property bearing Plot No.30/1A, Block - A, 3rd Floor, Harrington Chambers, Abdul Razak, 1st Street, Saidapet, Chennai measuring 1500 sq.feet of construction area along with $\frac{1}{4}$ undivided share in the land out of 5 grounds and 1962 sq.ft., bearing Door No.2, Abdul Razak Street, Saidapet, Chennai 600 015 comprising in Survey No.30/1A and 34 T.S.No.15/6 and 15/7, Block No.35, Saidapet Village, Chennai District, consequent upon the possession taken over by the Advocate Commissioner on 9/5/2015 and direct the respondent to grant 3 months time for settling the balance outstanding amount of Rs.65 lakhs with nominal bank interest in accordance with the One Time Settlement offered by the respondent by their letter dated 16/2/2015.

Prayer in W.P.No.15353 of 2015:-Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of certiorarified mandamus to call for the records on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai relating to the impugned order dated 1/10/2014 made in Crl.M.P.No.5182 of 2014 and quash the same and forbear the respondent from initiating any further action to auction the mortgaged property bearing Plot No.30/1A, Block A, 3rd Floor, Harrington Chambers, Abdul Razak 1st Street, Saidapet, Chennai, measuring 1500 sq.feet of construction area along with $\frac{1}{4}$ undivided share in the land out of 5 grounds and 1962 sq.feet, bearing Door No.2, Abdul Razak Street, Saidapet, Chennai 600 015 comprising in survey No.30/1A and 34 T.S.No.15/6 and 15/7, Block No.35, Saidapet Village, Chennai District, consequent upon the possession taken over by the Advocate Commissioner on 9/5/2015 and direct the respondent to grant 3 months time for settling the balance outstanding amount of Rs.65 lakhs with nominal bank interest with effect from 31/3/2015 in accordance with the One Time Settlement offered by the respondent by their letter dated 16/2/2015.

For petitioner : Mr.Richardson Wilson
for M/s.P.Wilson Associates

For respondent : Mr.F.B.Benjamin George

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C O M M O N O R D E R

(Order of the Court was made by SATISH K. AGNIHOTRI,J.,)

The prayer in these writ petitions with regard to quashing of the order dated 01.10.2014 made in Crl.M.P.No. 5182 of 2014 on the file of the Chief Metropolitan Magistrate Court, Chennai - 8, is not maintainable, inasmuch as, on an earlier occasion, the petitioner has approached this Court in W.P.No. 31495 of 2014 seeking the very same relief as sought in the instant writ petitions, which was dismissed as withdrawn with liberty to approach the Debts Recovery Tribunal.

2 So far as the second relief with regard to One Time Settlement is concerned, opportunity was given to the petitioner on several occasions, which was not availed of properly.

3 Thus, we cannot grant any direction to the respondent bank. Accordingly, these writ petitions are dismissed. However, we make it clear that if the Bank is prepared to enter into an One Time Settlement again with the petitioner, the order passed by us, will not stand in the way of the respondent bank in doing so. Connected miscellaneous petitions are dismissed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To
Authorised Officer/
Chief Manager Mr.N.Chandrasekar
Bank of India
Zonal Office
No.11 Kempegowda Road
Bangalore 560 009.

+1 cc to M/s.F.B.Benjamin George, Advocate,SR.32460.

Rsk(co)
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W.P. Nos.15351 to 15353 of 2015