

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2015

CORAM:

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

W.P. No.15357 of 2015
and
M.P.Nos.1 and 2 of 2015

P.Kandhan

... Petitioner

Vs.

1. The Chief Manager /Authorised Officer,
Indian Bank, Zonal Office,
Dharmapuri.

2. The Manager,
Indian Bank,
Kozhimekkanur Branch,
Pappireddipatti Taluk,
Dharmapuri District.

... Respondents

The Writ Petition is filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records relating to the impugned possession notice dated 27.4.2015 of the respondents issued under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 based on the notice dated 31.1.2014 issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and to quash the same.

For petitioner : Mr.S.Ravichandran
for Mr.N.Anand

ORDER

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

Assailing the legality and validity of the possession notice dated 27.4.2015 issued under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002, the writ petitioner has come up with this petition.

2. The case of the petitioner is based on a demand notice dated 31.1.2014 issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The respondent Bank had issued the possession notice of the secured assets, as aforestated. It is contended that the petitioner has already paid a sum of Rs.2,06,500/- against the education loan obtained to the extent of Rs.9,25,000/-. The respondent bank has clubbed the home loan obtained by the petitioner to the tune of Rs.4 lakhs as well as the educational loan for the purpose of issuing of demand notice under Section 13(2) of the SARFAESI Act. Thereafter, the recovery process has started by issuing the impugned possession notice for recovery of the entire sum, which is not permissible under the provisions of law.

3. It is further stated that after issuance of the possession notice dated 27.4.2015, no further action for recovery of outstanding loan amount by way of sale, has been taken. Thus, the petitioner be permitted to place his case in accordance with law and on its own merit before the bank and the bank, in turn, may be directed to consider his representation on merits as per law and take appropriate decision by taking recourse to the recovery of loan separately as the loan was advanced on separate heads.

4. In view of the aforestated submission, notice to the respondents is dispensed with at this stage. Without expressing any opinion on the merits of the case, we deem it fit and proper to grant liberty to the petitioner to make a representation before the respondents bank within a period of one week from the date of receipt of copy of this order. In turn, the respondents Bank are under obligation to consider the case of the petitioner as per his representation to be filed and take a decision in accordance with law and on its own merit.

5. With the aforestated observation and direction, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vvk

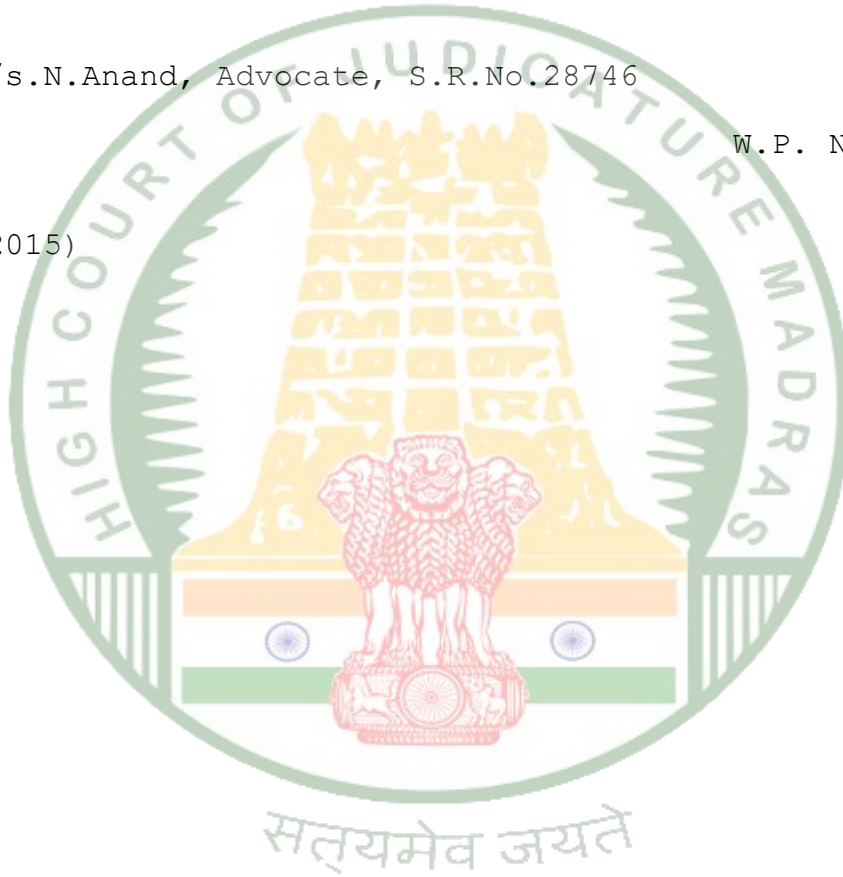
To

1. The Chief Manager /Authorised Officer,
Indian Bank, Zonal Office,
Dharmapuri.
2. The Manager,
Indian Bank,
Kozhimekkanur Branch,
Pappireddipatti Taluk,
Dharmapuri District.

+1cc to M/s.N.Anand, Advocate, S.R.No.28746

W.P. Nos.15357 of 2015

MP (CO)
CA(23/06/2015)



WEB COPY