

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6/7/2015

C O R A M

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

W.P. No.16010 of 2015

T. Srinivasan ... Petitioner

Vs

The Authorized Signatory
Corporation Bank
Midland Insurance Building
Teynampet
Chennai 600 018. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondent to consider the representation dated 13/12/2014 of the petitioner for taking appropriate steps under Section 14 of SARFAESI Act to deliver the vacant possession of the property i.e., residential building, measuring about 638 Sq.ft in Swamy Nagar, bearing Plot No.72, Survey No.67 (part) at No.168, New No.29, Mudichur Village.

For petitioner ... Mr.R.Suresh Kumar
for Mr.R.Ramesh

For respondent ... Mr.E.Venkatesh Babu

O R D E R

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

The petitioner is an auction purchaser. Admittedly, pursuant to the sale notice dated 20/9/2013, E-auction of the property in question was held on 25/10/2013 as a condition precedent, the petitioner had deposited a sum of Rs.7,50,000/- as EMD on 21/10/2013 enabling him to participate in the auction to be held on 25/10/2013. Being the successful bidder, the petitioner immediately, deposited 25% of the sale price to the tune of Rs.10,27,500/- on 28/10/2013. The remaining amount was deposited on 13/11/2013 and 25/11/2013, as per the communication dated 12/11/2013 of the respondent Bank. Indisputably, the petitioner has paid the entire sale consideration of Rs.71,10,500/- on or before 25/11/2013. Having received the entire sale amount, the respondent Bank has not taken any steps to

handover the vacant and peaceful possession of the property in question to the petitioner. The petitioner was made to approach this Court under writ jurisdiction in the instant petition.

2. The learned counsel appearing for the petitioner submits that once the petitioner has deposited the entire sale consideration, the petitioner is entitled to vacant and peaceful possession of the property in question. The petitioner is suffering on account of default committed by the respondent Bank.

3. The learned counsel appearing for the respondent Bank submits that the respondent Bank is ready and willing to handover the possession of the property in question, if the petitioner is ready to pay the expenses incurred by the respondent Bank in taking over the possession.

4. We have considered the rival submissions advanced by the learned counsel appearing for the parties.

5. It is beyond our comprehension as to how the petitioner is liable to make the payment of expenses for taking over possession of the secured property which was sold to the petitioner on auction. The petitioner has complied with all the conditions by depositing the amount of sale consideration within the requisite time. The entire money was paid on or before 25/11/2013. It is for the Bank to take over possession of the secured property from the borrower and handover the same to the petitioner forthwith without demanding any expenses from the purchaser. It is rather for the Bank to pay the loss and damages to the petitioner, who after having paid the entire amount has been waiting for possession of the property in question. However, since the petitioner is not claiming any

interest on the said amount, we are not inclined to make any observation on the said issue. However, in view of the afore-stated facts and situation, we direct the respondent Bank to handover possession of the property in question to the petitioner within a period of four weeks from today.

6. The writ petition stands disposed of, with the above direction and observation. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

mvs.

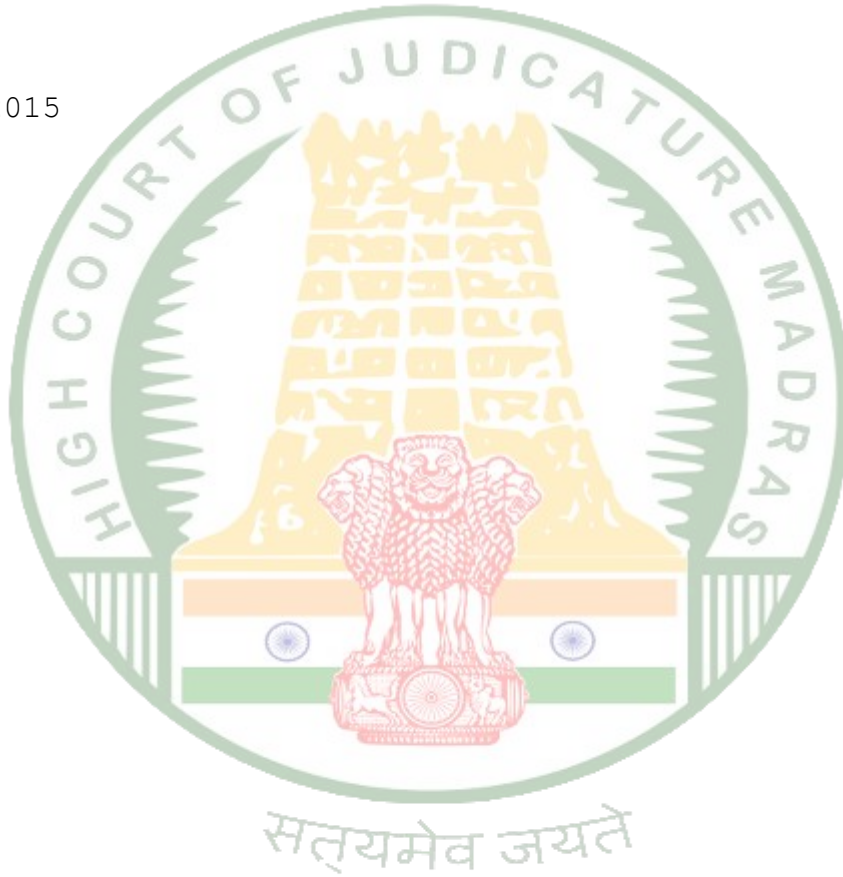
To

The Authorized Signatory
Corporation Bank
Midland Insurance Building
Teynampet
Chennai 600 018.

2 cc to Mr.S.Ramesh Kumar , Advocate Sr.No.33559 & 33889

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