

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8/10/2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

W.P. No.23603 of 2014
a n d
M.P.Nos.1 of 2014 and 1 of 2015

M/s.BKR Hotels & Resorts Pvt Ltd
rep. By its Managing Director
Mr.D.R.Balakrishna Raja
Old No.6 New No.9
Venkatesan Street
T. Nagar
Chennai 600 017.

...Petitioner

Vs

1. The General Manager/Zonal Manager
Zonal Office - Chennai North
Indian Bank
No.55 Ethiraj Salai
Chennai 600 008.
2. The Deputy General Manager/
Authorised Officer
Indian bank
Harbour Branch
No.66 Rajaji Salai
Chennai 600 001.

...Respondents

Prayer: 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 of the second respondent herein culminating in recall notice dated 26/5/2014 and consequent notice dated 1/7/2014 issued under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security

Interest Act, 2002 and quash the same and consequently direct the respondents not to invoke the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 during the moratorium period granted to the petitioner.

For Petitioner : Mr.S.Prabakaran
Senior Counsel
for Mr.M.Santhanaraman

For Respondents : Mr.F.B.Benjamin George

O R D E R
(delivered by SATISH K. AGNIHOTRI,J.,)

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2. Questioning the correctness of demand notice dated 1 July 2014, issued under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act") and for a further direction to the respondents not to invoke the provisions of the Act, during the moratorium period granted to the petitioner, the petitioner has come up with this writ petition.

3. According to the petitioner, the petitioner has submitted a reply to the aforesaid notice on 1 September, 2014 purported to be under the provisions of Section 13(3-A) of the Act. The said reply was considered and rejected by the respondent Bank on 2 September 2014. Thereafter, a possession notice under provisions of Section 13 (4) of the Act was issued on 6 September 2014. During the pendency of this writ petition, the matter was referred to Lok Adalat, wherein, the matter did not get settled.

4. In view of the above, we are of the considered view that this writ petition is not maintainable against the subsequent possession notice issued under Section 13 (4) of the Act, at this stage as effective expeditious statutory mechanism of appeal for redressal grievance, if any is available under the provisions of the Act.

5. Accordingly, this writ petition is dismissed as not maintainable. However, we reserve liberty to the petitioner to prefer an appeal under Section 17 of the Act, if so advised, within a

period of two weeks from today, i.e., on or before 27 October 2015. We make it clear that in that event, the question of limitation, shall not be considered. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mvs

To

1. The General Manager/Zonal Manager
Zonal Office - Chennai North
Indian Bank
No.55 Ethiraj Salai
Chennai 600 008.
2. The Deputy General Manager/
Authorised Officer
Indian bank
Harbour Branch
No.66 Rajaji Salai
Chennai 600 001.

1 CC to Mr.M.Santhanaraman, Advocate SR.No. 55277

1 CC to Mr.F.B.Benjamin George, Advocate SR.No. 54864

सत्यमेव जयते

W.P. No.23603 of 2014

SVI (CO)
PSI (12.10.2015)

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