

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/7/2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.22418 of 2015

S.Subramanian

... Petitioner

Vs

The Authorised officer
M/s.JM Financial Asset Reconstruction Co Pvt Ltd
3rd Floor B Wing, Suashish IT Park
Plot No.68 E, Off.Datta Pada Road
Opp.Tata Stee
Borivali (East)
Mumbai 400 066.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondent to furnish copies of Assignment Seed, executed by M/s.Karnataka Bank Limited and all the loan documents and documents related to mortgage, if any, which are the subject matter of advances referred in Notice dated 6/5/2014 issued by Karnataka Bank Limited, under Section 13 (2) of the SARFAESI Act.

For petitioner ... Mr. V.Gubendran
for M/s.Rank Associates.

O R D E R

The petitioner, purportedly to be a borrower, has come up with this petition, seeking for a direction to the respondent to furnish copies of Assignment Seed, executed by M/s.Karnataka Bank Limited and all the loan documents and documents related to mortgage, if any, which are the subject matter of advances referred in Notice dated 6/5/2014 issued by Karnataka Bank Limited, under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short the Act).

2. The learned counsel appearing for the petitioner submits that for want of relevant documents, the petitioner is not in a position

to proceed with the matter in accordance with the procedure laid down under the Act.

3. On a perusal of the papers, pleadings and the documents appended thereto, it is noticed that the demand notice was issued under Section 13 (2) of the Act. Thereafter, the petitioner has not taken any steps either to deny the liability or to make any representation as contemplated under Section 13 (3) (A) of the Act. Thereafter, a further notice under Section 13 (4) of the Act was issued on 6th May, 2014. It transpires that the response was sent by the respondent to the petitioner stating therein that the relevant documents will be produced before the appropriate proceedings and that may be taken either under Section 14 or under Section 17 of the Act.

4. Be that as it may, at this stage, we are not inclined to interfere with the matter as the petitioner has an opportunity to raise the issue at every stage, viz., under Sections 13 (2), 13 (4) and also under Section 14 of the notice as the provisions of the Act for taking over possession. The petitioner may also approach the Tribunal under the provisions of 14 of the Act, wherein the requisite information and documents may be called for.

5. Accordingly, this writ petition is dismissed as not maintainable, reserving liberty to the petitioner to take recourse to the appropriate forum, if so advised, under the provisions of law. No costs. Connected Miscellaneous Petition is also dismissed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

+1cc to rank Associates sr.37957

lrs[co]
srg 07.08.2015

W.P. No.22418 of 2015

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