IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2015

CORAM

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

W.P. No.24368 of 2015
and
M.P.Nos.1 and 2 of 2015

Boopathy Ramalingam .. Petitioner

Vs.

1.The Senior Manager,
Tamilnadu Merchantile Bank,
Gobichettipalayam Branch,
Erode District.
2.The Authorised Officer,
Tamilnadu Mercantile Bank Ltd.
Coimbatore Region. .. Respondents

The writ petition is filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the auction sale notice dated 8.7.2015 of the second respondent issued under SARFAESI Act, 2002 and quash the same.

For petitioner : Mr.M.Mariappan
for Mr.N.Chinnaraj

ORDER

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

Indisputably, the petitioner obtained a loan on placing the property in question as equitable mortgage. In default to make regular payment, a demand notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “SARFAESI Act”) was served on the petitioner on 24th March, 2008. Further, possession notice under Section 13(4) of the SARFAESI Act was served on 24th July, 2008. As projected by the petitioner, the petitioner has not taken any step subsequent to the aforestated notices. The property, which was held as secured asset, was put on auction to be held on 11th March, 2011, vide notice dated 3rd February, 2011 for recovering the outstanding loan amount. According to the learned counsel for the petitioner, the said property could not be disposed of. The property was again put on auction sale vide the impugned auction sale notice dated 8th July, 2015, notifying the date of auction to be held on 20th August, 2015.

2 What is the development after the said date is neither stated in the pleadings nor submitted by the learned counsel for the petitioner in clear terms. Be that as it may, it is well established that any measure taken under the provisions of Section 13(4) of the SARFAESI Act is appeable under Section 17 of the SARFAESI Act, which, it appears, the petitioner has not availed. The petitioner has sufficient protection when the auction of the property in question was notified under the provisions of Rule 8(5) read with Rule 9(5) of the Security Interest (Enforcement) Rules, 2002. The petitioner has been granted 30 days time to make payment of full dues outstanding in respect of the loan account. The petitioner had not taken any step to make payment of outstanding dues, notwithstanding the fact that the petitioner was served demand notice on 24th March, 2008. In that view of the matter, at this stage, we are not inclined to entertain this petition to quash the impugned auction notice dated 8th July, 2015, which had notified the date of auction as on 20th August, 2015. It is also not submitted before us as to whether the property, which was held to be auctioned on 20th August, 2015, has been sold off or not.

3 In view of the foregoings, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vvk
To

1.The Senior Manager,
Tamilnadu Merchantile Bank,
Gobichettipalayam Branch,
Erode District.
2.The Authorised Officer,
Tamilnadu Mercantile Bank Ltd.
Coimbatore Region.

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