

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. 28017 of 2015

A. Soundararajan

...Petitioner

Vs.

1. ICICI Bank Home Finance Ltd.,
rep. By The Branch Manager,
Kaveri Complex,
Near Bishop Bungalow,
VOC Nagar, Trichy Road,
Tanjore, Tanjore District.
2. The Authorised Officer,
The Assets Reconstruction Company (India) Ltd.,
Office No.1, II Floor,
No.39 Montieth Road,
Egmore, Chennai 600 008.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus Calling for the records of the 2nd respondent in pursuant to the auction notice dated 30.5.2013 published in Daily Thanthi by the 2nd respondent and to quash the same and to direct the 1st respondent to consider the one time settlement requested by the petitioner.

For petitioner

:

Mr. K. Jayaraman

ORDER

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

This writ petition is filed seeking to quash the auction notice dated 30.5.2013 published in Daily Thanthi by the second respondent and to direct the first respondent to consider the

petitioner's request for one time settlement.

2. Questioning the legality and validity of the auction notice dated 30.5.2013, the petitioner/borrower is before us seeking some time to make the payment. Even after the proposed auction is conducted, the petitioner/borrower is at liberty to settle the outstanding dues before the sale is confirmed. Prior to putting the property on sale, the petitioner/borrower was served a demand notice on various dates right from 20.10.2007 till 13.02.2009. Thereafter, the petitioner was also served a symbolic possession notice as prescribed under Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short 'the SARFAESI Act'). The petitioner, as it appears, has not taken up any step to clear the outstanding dues. The petitioner has not shown any reason for exercise of writ jurisdiction. Even otherwise, if the petitioner is aggrieved by any measure, which leads to sale of secured asset to recover the outstanding amount, he may take recourse to the appellate forum as available under the provisions of Section 17 of the SARFAESI Act.

3. As aforestated, the sale of the secured asset to recover the loan amount is prescribed under sub-section (4) of Section 13 of the SARFAESI Act. Taking over of possession and effecting sale for the purpose of recovery of money is one of the measures under Section 13(4), *ibid*. In that event, if a person is aggrieved by any action taken by the secured creditor under sub-section (4) of Section 13, *ibid* and also under the provisions of the Rules framed thereunder, he has to take recourse to the appellate forum available under Section 17, *ibid*.

4. In such view of the matter, we are not inclined to interfere with this writ petition. Accordingly, this writ petition stands dismissed. No costs. Connected miscellaneous petitions are dismissed. However, the parties are directed to maintain status quo, as obtained today, in respect of the property in question, for a period of one week from today.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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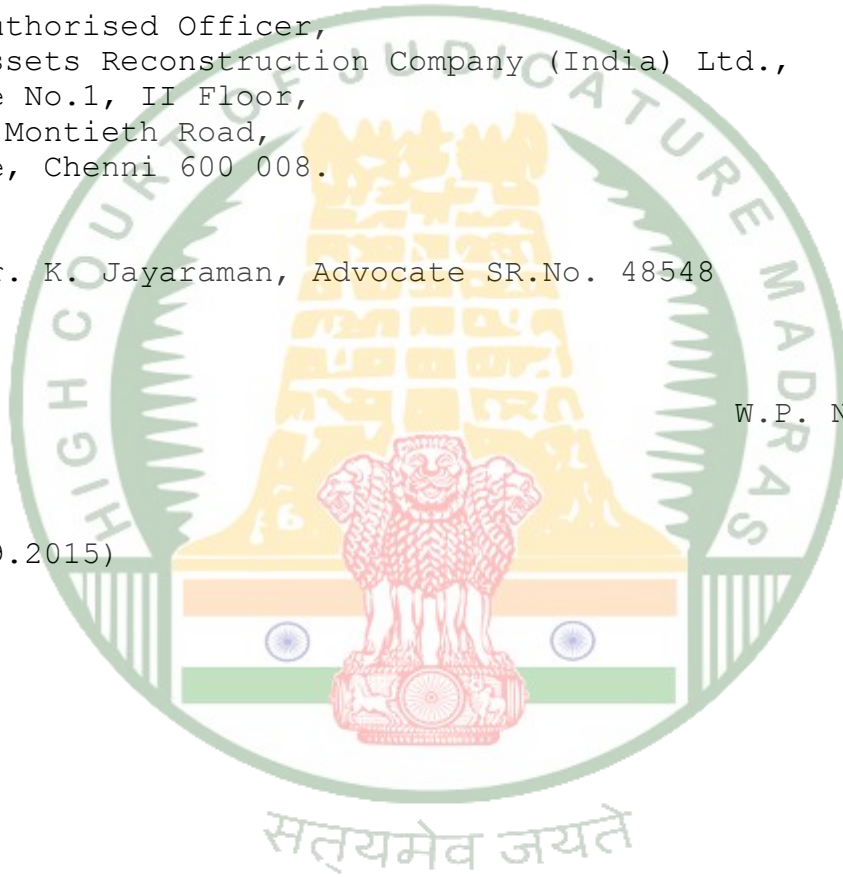
To

1. The Branch Manager,
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Tanjore, Tanjore District.
2. The Authorised Officer,
The Assets Reconstruction Company (India) Ltd.,
Office No.1, II Floor,
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1 CC to Mr. K. Jayaraman, Advocate SR.No. 48548

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KJI (CO)
PSI (29.09.2015)



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