

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE Dr. JUSTICE P.DEVADASS

W.P.No.38810 of 2015
and
M.P.Nos.1 and 2 of 2015

D.Desinguraja

.. Petitioner

Vs.

1.The State Bank of India,
Mandaveli Branch,
Chennai-600 028.
represented by its Branch Manager.

2.M/s.Reliance Asset Reconstruction Company,
No.5, Haddows Road,
Opposite to Sasthri Bhavan,
Nungambakkam,
Chennai-600 034.

.. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issue of a writ of certiorari to call for the records of the first respondent herein in communication dated 13.10.2015, transferring the Education Loan Account No.31683853359 in favour of the second respondent herein and quash the same.

For Petitioner : Mr.S.V.Karthikeyan

ORDER

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

Impugning the legality and validity of the communication dated 13th October, 2015, whereunder the petitioner has been

informed about the assignment of all rights, title and interests with the Bank in financial assistance in favour of the second respondent- Reliance Asset Reconstruction company, the instant writ petition has been preferred.

2. According to the learned counsel appearing for the petitioner, the loan amount granted to the petitioner could not have been transferred to the second respondent-Reliance Asset Reconstruction Company.

3. On query, as to whether there is any impediment in assigning the rights, title and interests in respect of financial assistance granted to the aforesaid Reconstruction company, it is clearly stated by the learned counsel that assigning of rights, title and interests in respect of financial assistance is permissible under the provisions of law. However, the petitioner was entitled to notice before issuing the aforesaid communication.

4. The "reconstruction company" is defined under clause (v) of Section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "SARFAESI Act"). Section 5 of the SARFAESI Act provides for acquisition of rights or interest in financial assets by the reconstruction company.

5. On perusal of the aforesaid provision, it is not envisaged that the consent or notice of the borrower is a condition precedent for assigning the rights, title and interest. On assignment, the said reconstruction company steps into the shoes of the bank. The Asset Reconstruction Company is required to initiate steps for enforcing the security interest and recovery of money in accordance with the mechanism as laid down under the provision of the SARFAESI Act. There is sufficient safeguard provided to the borrower, even after issuance of notice under Section 13(2) of the SARFAESI Act. Thus, the petitioner is not prejudiced if the rights, title and interests with the bank in respect of financial assistance granted to the petitioner is transferred to the second respondent. The communication is strictly in accordance with the provisions of law and sent to the petitioner for the purpose of information.

6. According to the petitioner, no demand notice under Section 13(2) of the SARFAESI Act has been issued till date and as such, no cause of action arises.

7. For the reasons mentioned herein-above, we do not find any merit in the contentions.

8. Resultantly, the writ petition stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.
vvk

Sd/-
Asst.Registrar

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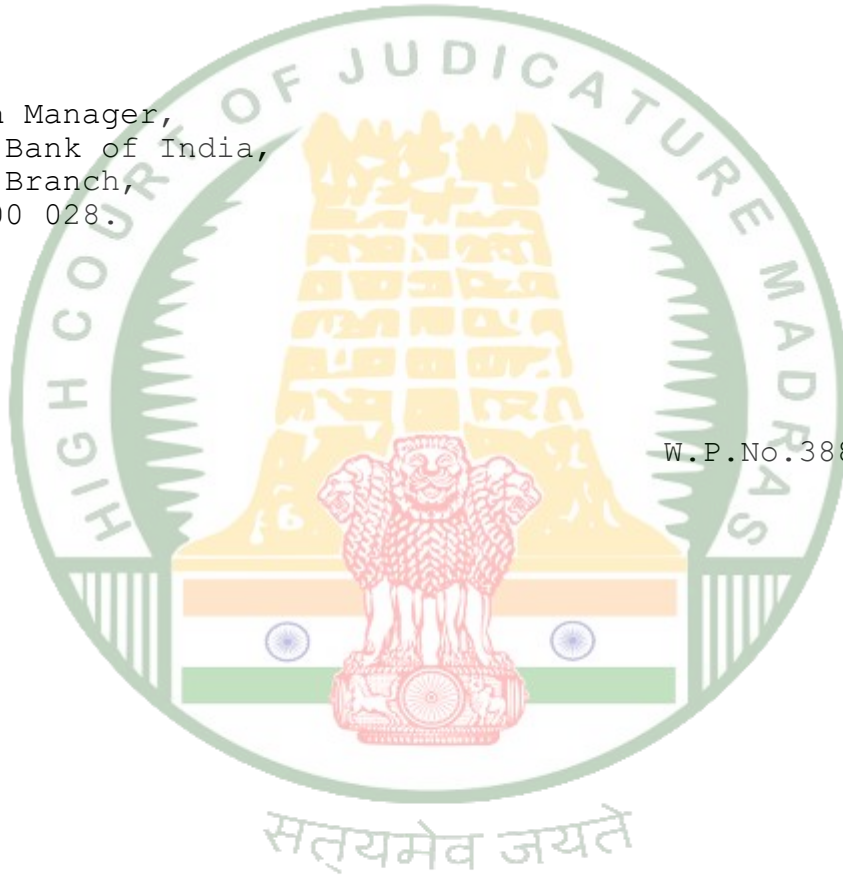
Sub Asst. Registrar

To

The Branch Manager,
The State Bank of India,
Mandaveli Branch,
Chennai-600 028.

PUR/CO
KR/22/12

W.P.No.38810 of 2015



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