

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.39090 of 2015 and M.P. No.1 of 2015

S.U. Sirajdeen

Petitioner

vs.

India Bulls Housing Finance Ltd.
No.590, "Sathya Towers" II Floor
D.B. Road
R.S. Puram
Coimbatore 641 002

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the respondent and quash the demand notice dated 19.06.2015 Ref.1711/HHECOM00015781 and consequently, direct the respondent to recover the amounts as per the agreed instalments of 120.

For petitioner Mrs. Ananda Gomathy

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Impugning the correctness of the notice dated 19 June 2015 issued by the respondent-financial institution under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act"), the petitioner, whose father had availed loan from the respondent-financial institution, has come up with the instant writ petition, contending that the said demand notice is not maintainable as he has already paid 88 instalments and the respondent-financial institution ought to have given further instalments and opportunity to settle the dispute as one time measure.

2 Be that as it may, there is a complete effective mechanism under the provisions of the SARFAESI Act. In the event, the demand notice is served, which, in the case on hand, has been done on 19 June 2015, the borrower/guarantor is expected to ensure payment of balance defaulted amount within a period of 60 days. If there is

other objection, the borrower/guarantor is further given an opportunity to make a representation/objection.

3 It appears that in the case on hand, neither of the above has been done. It is a well settled principle of law that unless a case is made out alleging infringement of legal/statutory or any other right, the Court should not exercise its extraordinary jurisdiction under Article 226 of the Constitution of India. Thus, we decline to interfere with the impugned demand notice. However, we reserve liberty to the petitioner to make a representation within a period of one week under the provisions of Section 13(3-A) of the SARFAESI Act, if so advised. In the event, a representation is made by the petitioner, the respondent-financial institution has to take a decision on such representation before proceeding further.

The writ petition stands disposed of with the above observations. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

cad

To

The Manager
The India Bulls Housing Finance Ltd.
No.590, "Sathya Towers" II Floor
D.B. Road
R.S. Puram, Coimbatore 641 002

1 cc to Mr.Ananda Gomathy, Advocate, Sr. 66902

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SK (CO)
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