IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2015

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THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P. No.7972 of 2015

T.Ashok Surana ... Petitioner

Vs

The Authorised Officer,
Indian Overseas Bank,
Knit City Branch,
No.37, 60 feet Road, J.G.Nagar,
Kumarananthapuram, Tirupur - 641 602. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of writ of prohibition to prohibit the respondent Bank from enforcing the security interest as per the Sale Notice dated 16.2.2015 issued as it is in violation of the mandatory provision of Section 31(j) and Section 18(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 apply the benefits of its own recovery policy and collect from/refund the excess collected to the borrower.

For petitioner : Mr.T.Ashok Surana -
petitioner in person

O R D E R
(Order of the Court was made by M.M.SUNDRESH,J.)

The petitioner herein filed this writ petition styling it as a public interest litigation seeking a writ of prohibition prohibiting the respondent Bank from enforcing security interest in pursuant to the sale notice dated 16.2.2015 issued by the respondent Bank.

2. The petitioner, who has appeared in person, submitted that the sale notice dated 16.2.2015 issued by the respondent Bank is illegal. Though the borrower has paid substantial amount of money, for the non-payment of the remaining amount, proceedings have been initiated. A further submission has been made that there are certain procedural irregularities including the valuation fixed. In support of his contention, the petitioner made reliance on a judgment of the Supreme Court in Indian Banks' Association, Bombay and others Vs. M/s.Devkala Consultancy Services and others ((2004) 11 SCC 1)

3. We are at a loss to understand as to how the present writ petition is maintainable as a public interest litigation. The petitioner is not an aggrieved person. Admittedly, the borrower is not before us. There is a statutory remedy available to the borrower. The petitioner has not challenged any public policy and demonstrated that it is contrary to law. In pursuant to a simple loan transaction entered into between the parties, action has been taken by the respondent Bank to recover the amount defaulted. Thus, looking from any angle, the writ petition is totally misconceived. Before passing orders, we asked fairly as to whether he would like to withdraw the writ petition, since similar writ petition was permitted to be withdrawn only yesterday. The petitioner has submitted that he is not willing to withdraw the same. We also perused the judgment of the Supreme Court in Indian Banks' Association, Bombay and others Vs. M/s.Devkala Consultancy Services and others ((2004) 11 SCC 1). We do not find any applicability of the said decision to the facts of the case. We also take note of the fact that the writ petition has been filed basing reliance upon a newspaper publication. Thus, the petitioner is not in possession of adequate facts. We are of the view that the writ petition as filed is totally misconceived.

4. Accordingly, the writ petition stands dismissed with costs of Rs.10,000/- (Rupees ten thousand only) payable to the Tamil Nadu Mediation and Conciliation Centre within a period of two weeks from the date of receipt of copy of this order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
1. The Authorised Officer,Indian Overseas Bank,
Knit City Branch, No.37, 60 feet Road,
J.G.Nagar, Kumarananthapuram, Tirupur - 641 602.

2. Tamil Nadu, Mediation and Conciliation Centre,
High Court, Chennai-104.

3. Mr.T.Ashok Surana, S/o. Late Tejmull Surana,
44 kutcher Road, Mylapore, Chennai 600 004.

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GGK(CO)
Eu 11.04.15