

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

W.P. No.14536 of 2016
and

W.M.P.No.12699 of 2016

1.M/s.Silicon Valley Auto Components (P)
Ltd., now known as
M/s. ACCEM Industries (P) Ltd.,
rep. by its Managing Director
2.P.K.Mohamed Muyeenuddin
3.Sabeena Muyeenuddin ... Petitioners

Vs.

1.The Indian Bank rep. by
Branch Manager,
Nandanam Branch,
No.480, Anna Salai,
Chennai - 35.
2.The Authorised Officer,
Indian Bank,
Nandanam Branch,
No.480, Anna Salai,
Chennai - 35.
3.The Indian Bank,
Zonal Office, Chennai South,
55, Ethiraj Salai,
Chennai - 8. ... Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the notice dated 03.03.2016 issued by the second respondent herein and the auction held on 15.03.2016 pursuant thereto in respect of the petitioner's property situate at No.10D, Casuarina Drive, Neelangarai, Chennai - 115 and quash the same and consequently cancel the Certificate of Sale dated 31.03.2016 issued by the second respondent to the third respondent herein as intimated to

the petitioner under letter dated 04.04.2016 of the first respondent.

For Petitioners .. Mr.AR.L.Sundaresan,
Sr. Counsel for Ms.AL.Ganthimathi

ORDER

(delivered by SATISH K.AGNIHOTRI, J.)

Notice to the respondents is dispensed with, at this stage, inasmuch as no adverse order is passed against them in this writ petition. Thus, with the consent of the learned Senior Counsel appearing for the petitioners, the writ petition is taken up for final disposal, at the admission stage itself.

2. Impugning the notice dated 03 March 2016 issued by the respondent bank, whereunder, the earlier date of 04 March 2016 fixed under sale notice dated 30 January 2016 was rescheduled to 15 March 2016 and further, seeking a direction to cancel the Certificate of Sale dated 31 March 2015 (sic) 2016 issued by the second respondent to the third respondent, as intimated to the petitioner under letter dated 04 April 2016 of the first respondent, the petitioners have come up with the instant writ petition.

3. According to the learned Senior Counsel appearing for the petitioners, the auction has been conducted and the sale certificate has also been issued. In pursuance thereof, the respondents are proceeding with taking over possession of the property. Further, according to him, the petitioners are entitled to 30 days notice, even if the date of sale is rescheduled, which has not been done in the case on hand. Thus, the entire process of auction is vitiated.

4. If the auction is vitiated on account of non-observance of certain statutory provisions, the petitioners may approach the appropriate forum, as according to them, there is violation of statutory provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The appropriate forum may be the Debts Recovery Tribunal (for short "the Tribunal"). To say in other words, if, according to the petitioners, the auction has been conducted de hors the procedure contemplated in regard thereto, the same cannot be assailed by way of filing a writ petition, for, it is an axiomatic principle of law that a person, being aggrieved by any action or measure taken under Section 13(4) of the SARFAESI Act, is competent and entitled to prefer an application under Section 17, *ibid*, before the Debts Recovery Tribunal. It is also a well settled principle of law that once

the secured asset has been put on auction, there is no reason to exercise the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

5. The learned Senior Counsel appearing for the petitioners submits that the petitioners intend to approach the Tribunal. However, since the authorities are proceeding with taking over possession of the property, the petitioners may be granted fifteen days time to approach the Tribunal.

6. Regard being had to the facts situation, especially, the fact that the secured asset involved herein is a residential premises, we are inclined to hold that status quo as obtained today, in respect of the possession of the property, shall be maintained for a period of two weeks.

The writ petition is accordingly disposed of, reserving liberty to the petitioners to take recourse to the appropriate forum, as permissible under the provisions of law, if so advised. No costs. Consequently, connected W.M.P. is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Branch Manager,
Nandanam Branch,
No.480, Anna Salai,
Chennai - 35.

2.The Authorised Officer,
Indian Bank,
Nandanam Branch,
No.480, Anna Salai,
Chennai - 35.

3.The Indian Bank,
Zonal Office, Chennai South,
55, Ethiraj Salai, Chennai - 8.

+1 cc to M/s.AL.Ganthimathi Advocate sr.24474/16

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