

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.20150 of 2016
&
WMPs.No.17334 & 17335 of 2016

S.Satheesh Kumar ... Petitioner

-vs-

1. The Branch Manager
Repco Home Finance Ltd.,
No.242-244, First Floor
Sinnaiya Plaza
M.G.Road
Pondicherry 605 001

2. Authorised Officer
Repco Home Finance Ltd.,
No.242-244, First Floor
Sinnaiya Plaza
M.G.Road
Pondicherry 605 001

3. M.Illangovan

4. I.Monalisa

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the notice in Ref.No.RHFL/PON00832/2016 dated 30.03.2016 and as published in one issue of Indian Express dated 28.04.2016 by the second respondent to quash the same and forbear the respondents 1 and 2 from in any manner bringing the property in R.S.No.270/2A/2, Cadestre No.1741/1 in Thattanchavady Village No.34 and the building constructed thereon, bearing No.89, Kamaraj Salai, Tindivanam Road, Puducherry 605 009 by way of any public auction for the amounts borrowed by the respondents 3 and 4 as Home Loan.

For Petitioner :: Mr.S.Subbiah

For Respondents:: Mr.A.Ilangovan for R1 & R2
Mr.D.Bharatha Chakravarthi for
M/s Sai, Bharath & Ilan for R3 & R4

ORDER

(Order of the Court was delivered by HULUVADI G.RAMESH, J.)

Heard the learned counsel for the petitioner/agreement holder, learned counsel representing the respondents 1 & 2/Repco Home Finance Limited and also the learned counsel representing the respondents 3 & 4/borrowers.

2. It appears that in connection with the realisation of the debt, a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 came to be issued by the respondent-Repco Home Finance Limited to the respondents 3 & 4/borrowers. In the meanwhile, it appears that the petitioner entered into a transaction with the respondents 3 & 4 to purchase the subject property for a total consideration of Rs.1,10,00,000/- and an advance of Rs.42,00,000/- is said to have been paid in favour of the respondents 3 & 4 and also in this regard, a suit for specific performance is pending before the civil Court at the instance of the petitioner. Hence the petitioner is seeking for a direction to confirm the sale of the property in his favour praying that he undertakes to discharge the loan to the respondents 1 & 2.

3. On the other hand, the case of the respondents 3 & 4, being the owners of the property, is that only a notice under Section 13(2) of the SARFAESI Act has been issued and they have got sixty days time to make the payment and they also undertake to make good the payment, etc.

4. In the circumstances, when there is a litigation pending between the petitioner and the respondents 3 & 4, it is for the petitioner as well as the respondents 3 & 4 to settle their scores before the civil Court on merits. However, in view of the undertaking given by the respondents 3 & 4 with regard to the discharge of the loan, another three months time is given to them from the date of receipt of a copy of this order and it is for the respondent-Repco Home Finance Limited to accept the amount of Rs.13,96,588/- with further interest from 16.3.2016 onwards and to get the matter settled as an one time settlement. It is made clear that the petitioner and the respondents 3 & 4 may go for settlement amongst themselves or else get the pending

suit disposed of on merits before the civil Court. However, the respondents 1 & 2 shall not proceed further to dispose of the subject property until a period of three months from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. Consequently, W.M.P.Nos.17334 & 17335 of 2016 are closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ss
To

1. The Branch Manager
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Pondicherry 605 001
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+1 cc to M/s.Sai bharath & Ilan Advocate sr.39099
+1 cc to m/s.S.Subbiah Advocate sr.38901
+1 cc to Mr.A.Ilangovan Advocate sr.38594

सत्यमेव जयते

W.P.No.20150 of 2016

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