

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.7.2016

CORAM

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

W.P.No.23106 of 2016
and
W.M.P.No.19815 of 2016

Mrs.R.Nabisha Begum

Petitioner

Versus

1 The Chief Manager and Authorized Officer
Bank of Baroda
No.52 Montieth Road
Egmore Chennai-600 008

2 Mr.Y.Rajesh

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records relating to the Impugned E-Auction Notice issued by the 1st respondent dated 16.06.2016 and quash the same and to direct the 1st respondent to follow the procedure contemplated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(SARFAESI Act), sections 13 and 14.

For petitioner : Mr.M.MD.Ibrahim Ali

For R1 : Mr.S.Mohan for
Mr.S.Pandurangan

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ petition has been filed seeking issuance of a writ of certiorari to call for the records relating to the Impugned E-Auction Notice issued by the 1st respondent dated 16.06.2016 and quash the same and to direct the 1st respondent to follow the procedure contemplated under the Securitisation

and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(SARFAESI Act), sections 13 and 14.

3. On the previous occasion, interim order was passed at the request of the petitioner i.e., none other than the tenant of the property in question. The property is the subject matter of security to the bank viz., the first respondent. Therefore, the question of staying the auction against the secured creditor does not arise. The only course of action open to the petitioner is to seek for extension of time for vacating the premises. The dispute between the principal borrower, who is the landlord in question, and the petitioner is with regard to payment of Rs.6,00,000/- made by the petitioner to the borrower. That has to be worked out in a separate proceedings.

4. With regard to evicting the tenant is concerned, all that the Apex Court held is to follow due process of law and give reasonable time and opportunity to the tenant to vacate the property. Further, we find that it would not be proper to extend the stay as against the bank since already we have given reasonable time to the petitioner, but, she did not come forward with any positive assurance with regard to settlement. Therefore, we dispose of the writ petition. The first respondent-bank can proceed with the auction as the interest of the petitioner is only that of a tenant and her right could be protected elsewhere under law. The auction purchaser or the bank, as the case may be, would proceed to evict the petitioner in accordance with law. No costs. The connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

ssk.

To:

The Chief Manager and Authorized Officer
Bank of Baroda
No.52 Montieeth Road
Egmore Chennai-600 008

+1 cc to Mr.M.Md.Ibrahim Advocate sr 42792

+1 cc to Mr.S.Mohan Advocate sr 42831

W.P.No.23106 of 2016

aa01/09/2016