

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.6228 of 2017

and

W.M.P.No.6721 of 2017

J.Sayee Prasad ... Petitioner

Vs.

1 The Banking Ombudsmen,
Reserve Bank of India,
Fort Glacis,
Chennai - 600 001.

2. M/s.Federal Bank,
Tirupur Industrial Finance Branch,
No.132-A, Deepa Complex,
Mangalam Road,
Karuvampalayam,
Tirupur - 641 604.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the first respondent to pass orders on the complaint dated 01.02.2017 of the petitioner within the time frame stipulated by this Hon'ble Court.

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For Petitioner

: Mr.S.Rajeni Ramadass

For Respondents

: Mr.A.V.Radhakrishnan
for 2nd respondent

ORDER

(Order of the Court was made by the Acting Chief Justice)

Mr.A.V.Radhakrishnan, learned counsel takes notice for the second respondent.

2. Heard the learned counsel for the petitioner and the learned counsel for the second respondent.

3. The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus directing the first respondent to pass orders on the complaint dated 01.02.2017 of the petitioner within the time frame stipulated by this Court.

4. It is the case of the petitioner that he was inducted as sleeping partner in M/s.Sri Prasana Tex and Ms.J.R.Buvaneshwari and K.Vasuki were the existing partners of the firm. The other partners initially availed a sum of Rs.3 crores from the Indian Bank and Bank of Baroda and later it was taken over by the second respondent for a sum of Rs.6 crores. It is the further case of the petitioner that his property in S.No.75/2 measuring an extent of 83.57 cents at Edapadi was taken by the second respondent as additional security for the loan granted by them. The second respondent declared the firm's account as NPA, as the account was not regularised due to which the second respondent initiated SARFAESI proceeding against the firm. The second respondent also issued possession notice on 09.12.2016 for the outstanding of Rs.5,74,92,890 in which the petitioner's property also listed. As the hypothecated primary securities worth Rs.416.85 lakhs was available with the second respondent which was also insured, the petitioner sent letter on 26.12.2016 requesting them to take action against the said securities. But the second respondent without considering the same, sent letter on 19.12.2016 and 2.1.2017 stating that they have assigned the handling of recovery of the firm account to recovery agent. Now the private agency is harassing the petitioner. On 01.2.2017, the petitioner submitted a complaint before the first respondent requesting them to issue notice to the second respondent. Since no action was taken on the complaint, the petitioner has filed the writ petition seeking the relief stated supra.

5. The grievance of the petitioner is that he is a sleeping partner of M/s.Prasana Tex and the other partners were away from the firm and recovery steps may be initiated against the other partners. Since the private recovery agency is harassing the

petitioner, he made a compliant before the first respondent on 01.02.2017 requesting them to take action against the second respondent. Till date, no action was taken on the complaint.

6. The learned counsel for the second respondent submits that the petitioner is the guarantor/co-obligant of the loan advanced and there is no merit in the submission made by the learned counsel for the petitioner.

7. Considering the facts and circumstances of the case, we are of the view that with regard to the possession notice issued, it is for the petitioner to reply the said notice and to face the consequences or come out with substantial payment towards the amount due or to approach the Debt Recovery Tribunal seeking appropriate orders. No direction as sought for by the petitioner could be passed in this petition.

8. The writ petition, accordingly, stands disposed of. No costs. Consequently, W.M.P.no.6721 of 2017 is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

The Banking Ombudsmen,
Reserve Bank of India,
Fort Glacis,
Chennai - 600 001.

+1cc to M/S.S.Rajani Ramadoss, Advocate Sr.19374
+1cc to Mr.A.V.Radha Krishnan, Advocate Sr.19676

सत्यमेव जयते
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W.P.No.6228 of 2017

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