

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 9/2/2017

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice M.Govindaraj

Writ Petition No.4598 of 2015

P. Tamizharasan

Petitioner

Vs

1. The Manager
ICICI Home Finance Company Limited
Arihant Insight
Plot No.24 Block No.1
Ambattur Industrial Estate
Chennai 600 053.
 2. The Manager
ICICI Home Finance Company Limited
No.6, 1st Main Road
3rd Floor, Kasturibai Nagar
Kalyanlakshmi Buildings
Adyar
Chennai 600 020.
 3. The General Manager (Home Loan)
Race Course Circle
Vadodara 390 007
Gujarat State.
 4. The Manager
The Asset Reconstruction Company (India) Ltd
No.715 - C 7th Floor
Spencer's Plaza, Phase Ii
769 Anna Salai
Chennai 600 002.
 5. The Union of India
rep. by its Secretary
Ministry of Finance
New Delhi.
- ...
- 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 concerned record in his proceedings No.Nil. dated 23/1/2015 passed by the fourth respondent herein and to quash the same and consequently direct the first respondent to "Receive the Balance Loan Amount with its interest as per the loan sanction letter bearing No.1285292 for LAN LBCHE00000819438 and to Release the Original Documents" of the petitioner house, including the ground to an extent of 4360 Sq. ft in S.No.24/1 (Old Survey No.253/1ABC) situated in Mailam Village, Tindivanam Taluk, Villupuram District.

For petitioner Mr.A. Vimalraj
for Mr.M.Arumugam

For respondents Mr.E.Iyappan
for M/s. T.Muruganantham
for R.R.1 to 3.
Mr.V.Jayanchandran
for R.4.
Mr.K.Gunasekar
for R.5.

O R D E R

(Order of the Court was made by S.Manikumar,J)

Borrower has challenged the sale notice, dated 23/1/2015, issued by the Manager, Asset Reconstruction Company (India) Ltd., Chennai/fourth respondent and consequently, prayed for a direction to the Manager, ICICI Home Finance Company Limited, Chennai/first respondent, to receive the balance loan amount with interest, as per loan sanction letter, bearing No.1285292 for LAN LBCHE00000819438. Borrower has also prayed for a direction, to release the original documents of his house including the ground, to an extent of 4360 Sq.ft, in S.No.24/1 (Old Survey No.25/1ABC), situated in Mailam Village, Tindivanam Taluk, Villupuram District.

2. On 24/2/2015, a Hon'ble Division Bench of this Court has passed the following order:-

"The case of the petitioner before us, is that the fourth respondent has put the property of the petitioner on auction without issuing a requisite notice under Clause (6) of Rule 8 of the Security Interest (Enforcement) Rules, 2002 and also

before putting the property in question for auction, no notice as contemplated under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, had been issued.

2. Mr.T.Muruganantham, learned counsel for ICICI Bank, accepts notice on behalf of respondents 1 to 3. Notice to respondents 3 and 5 returnable in four weeks.

3. It is stated that the auction is scheduled today i.e., 24/2/2015. If the auction had taken place as scheduled, the sale shall not be confirmed and also the sale certificate shall not be issued till the next date of hearing. Post on 24/3/2015."

3. Recording the statement of the writ petitioner that he would be discharging the liability, on 16/4/2015, a Hon'ble Division Bench of this Court has passed the following order:

"The petitioner is willing to discharge the liability. In that view, we are adjourning the matter by four weeks to enable the Bank as well as the petitioner to sit together and settle the issues. Call on after four weeks."

4. On this day, when the writ petition is posted for further hearing, Mr.M.Arumugam, learned counsel for the writ petitioner submitted that adequate time be granted to pay the amount.

5. Per contra, Mr.E.Iyappan for M/s. T.Muruganantham, learned counsel for the respondents 1 to 3 submitted that pursuant to the order of interim stay granted on 24/2/2015, sale as scheduled did not take place. He further submitted that the first prayer sought for in the writ petition has become infructuous.

6. Heard Mr.A.Vimalraj for Mr.M.Arumugam, learned counsel for the petitioner, Mr.E.Iyappan for M/s. T.Muruganantham for the respondents 1 to 3, Mr.V.Jayachandran for the fourth respondent and Mr.K.Gunasekar for the fifth respondent.

7. Sale as scheduled did not take place. As per the statutory provisions, one month prior notice has to be given for

sale. In so far as the second portion of the prayer sought for in the writ petition is concerned, it is for the petitioner to work out his remedy with the Bank. Therefore, we are not inclined to issue any further directions.

8. With the above observation, this writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

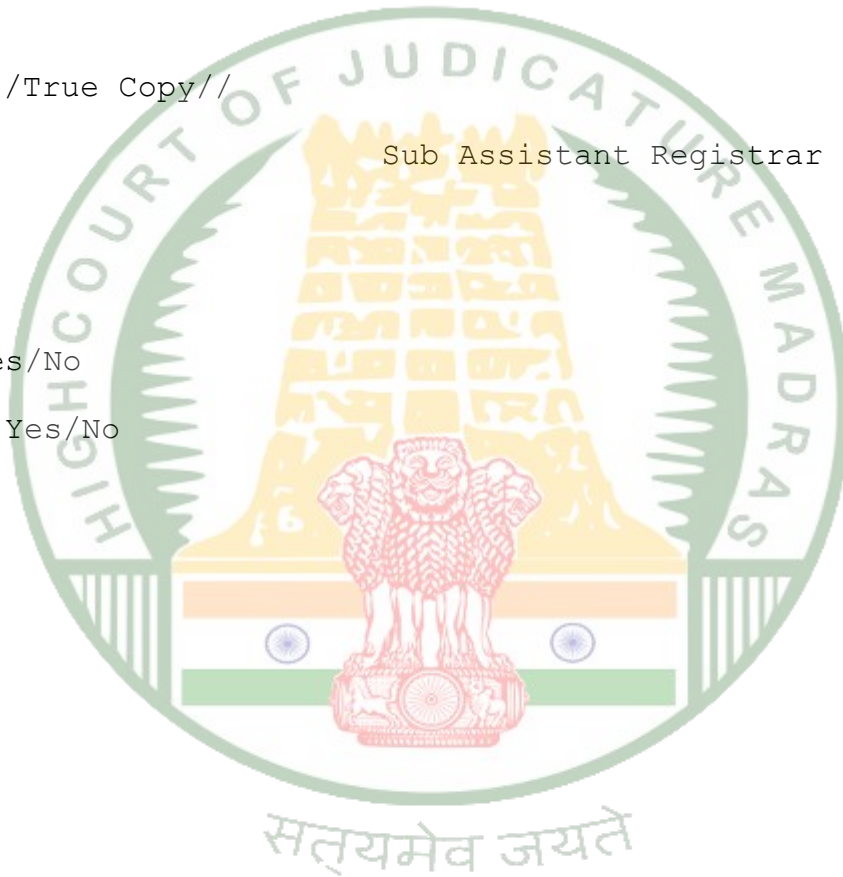
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Sub Assistant Registrar

mvs.

Index: yes/No

website: Yes/No



To

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5. The Secretary
Union of India
Ministry of Finance
New Delhi.

+1cc to Mr.V. Jayachandran, Advocate, S.R.No.8370
+1cc to Mr.T. Muruganatham, Advocate, S.R.No.8527
+1cc to Mr. M. Arumugam, Advocate Sr.No.9281

pvs (CO)
md(01/03/2017)

सत्यमेव जयते Writ Petition No.4598 of 2015

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