

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No14251 of 2013

and

M.P.No.2 of 2013

1. Radhakrishnan

2. Mrs.Anthony Mary

... Petitioners

vs.

1. The District Collector,
Krishnagiri.

2. The Housing Development Finance Corpn. Ltd.,
rep. by Its Senior Manager - Recoveries,
No.51, Kasturba Road,
Bangalore - 560 001.

... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, to forbear the respondents, their men, agents, servants, subordinates or anybody from in any way dispossessing petitioners/ taking possession of the property situated in Old S.No.317B/1, New Sy.No.317B1/12 and 317B1/13 situated in ground and first floor in Chinnathimanayanapalli Village, Dhinnur Village Natham, Krishnagiri Taluk, Dharmapuri District admeasuring Plot area of 1109 sq.ft., and built up area of 1668 sq.ft. or thereabouts.

For Petitioners : Mrs Selvi George

For Respondents : Mr.K.V.Dhanapalan (for R1)
Spl. Government Pleader.

Mr.K.Subbu Ranga Bharathi (for R2)

ORDER

(Order of the Court was delivered by S.MANIKUMAR, J)

On 06.09.2017, we passed the following orders.

"A Hon'ble Division Bench of this Court, while ordering notice of motion on 15.05.2013, has passed the following orders.

"Notice of motion returnable by twelve weeks.

In the meanwhile, the second respondent is directed to remove the lock and seal affixed in the property situated in Old S.No.317/B1, New Sy.No.317B1/12 & 317B1/13, situated in ground and first floor in Chinnathimanyampalli Village, Dhinnur Village Natham, Krishnagiri Taluk, Dharmapuri District, subject to the condition that the petitioners make payment of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand Only) within a period of four weeks from the date of receipt of a copy of this order."

2. Responding to the same, a sum of Rs.1.50 Lakhs is stated to have been paid to the bank. On receipt of the same, physical possession is stated to have been handed over to the writ petitioners. On 22.08.2013, writ petition has been dismissed for default. Subsequently, vide order dated 04.10.2013, writ petition has been restored. Consequent to restoration, status quo ante continues, and the petitioners are enjoying the benefit of stay.

3. On this day, when the matter came up for further hearing, Mr.K.Aravinth Bharath, learned counsel for Housing Development Finance Corporation Limited, Bangalore, 2nd respondent, submitted that after the initial payment of Rs.1.50 Lakhs, petitioners have not made any further payment. He further submitted that as on today, a sum of Rs.3,16,245/- is the outstanding amount due and payable by the writ petitioners.

4. Ms.Selvi George, learned counsel for the petitioners seeks time to get instructions from them.

5. Post on 18.09.2017."

2. On this day, when the matter came up for further hearing, Mrs.Selvi George, learned counsel for the petitioners submitted that her letter to the petitioners, has not been responded.

3. Omnibus prayer, Mandamus, forbearing the respondents, their men, agents, servants, subordinates or anybody from in any way dispossessing petitioners/ taking possession of the property situated in Old S.No.317B/1, New Sy.No.317B1/12 and 317B1/13 situated in ground and first floor in

Chinnathimanayanapalli Village, Dhinnur Village Natham, Krishnagiri Taluk, Dharmapuri District admeasuring Plot area of 1109 sq.ft., and built up area of 1668 sq.ft. or thereabouts, cannot be granted. However, fact remains that the petitioners have been in possession by virtue of an interim order. Hence, Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. It is open to the 2nd respondent bank to take measures, under Section 13(4) of the SARFAESI Act, 2002.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Krishnagiri.

2. Senior Manager - Recoveries,
Housing Development Finance Corpn. Ltd.,
No.51, Kasturba Road,
Bangalore - 560 001.

+1cc to Mrs.Selvi George, Advocate SR.No.67900

+1cc to Mr.K.Subbu ranga bharathi, Advocate SR.No.68521

W.P.No14251 of 2013
and
M.P.No.2 of 2013

SDR 06.10.2017

सत्यमेव जयते

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