

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.3.2017

CORAM

THE HONOURABLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.26914 of 2016

Dr.D.Kumudhan
Rep. by Power of
Attorney Mrs.D.Anbuselvi

Petitioner

Versus

1 The Chief Manager /
Authorised Officer
Indian Bank
Asset Recovery Management Branch
Circle Office Building
Fourth Floor No.55 Ethiraj Salai
Chennai-600 008.

2 The CEO & Managing Director
Head Office
Indian Bank 66 Rajaji Salai
Chennai-600 001.

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the 1st respondent with suitable instructions to the 2nd respondent to cancel the sale certificate dated 14.11.2008 and refund the sum of Rs.51,50,000/- (Rupees fifty one lakhs and fifty thousand only) paid by the petitioner towards the sale value of the auction property, along with interest at the rate of 18% computable with annual compounding and costs without prejudice to the petitioner's other rights to claim damages separately from the 1st respondent, through relevant Civil Court for the mental depression, anguish and turmoil subjected to over the past eight years by the petitioner.

For petitioner : Mr.R.Rajavel
For R1 : Mr.Jayesh B.Dolia for
M/s.Aiyar & Dolia
For R2 : No appearance.

ORDER

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

Heard the learned counsel appearing for the petitioner and Mr.Jayesh B.Dolia, learned counsel appearing for the first respondent.

2 The writ petition has been filed seeking issuance of a writ of mandamus directing the 1st respondent with suitable instructions to the 2nd respondent to cancel the sale certificate dated 14.11.2008 and refund the sum of Rs.51,50,000/- (Rupees fifty one lakhs and fifty thousand only) paid by the petitioner towards the sale value of the auction property, along with interest at the rate of 18% computable with annual compounding and costs without prejudice to the petitioner's other rights to claim damages separately from the 1st respondent, through relevant Civil Court for the mental depression, anguish and turmoil subjected to over the past eight years by the petitioner.

3. It appears that the petitioner, a Doctor by profession, working at London, who is the successful bidder and auction purchaser of the the flat in question, in an auction conducted at the instance of the respondent-bank under SARFAESI Act and having paid the sale consideration of Rs.51,50,000/-, now seeks for cancellation of the sale certificate and refund of the sale consideration, finding some difficulty in taking possession of the property since the it was already subjected to court proceedings before the Chief Metropolitan Magistrate, Chennai in CrI.M.P.No.241 of 2009.

4. As per the submissions of the learned counsel appearing for the bank, now the property would fetch more than one crore rupees. Therefore, there cannot be any hindrance for the bank to entertain the claim of the petitioner and conduct a fresh auction sale.

5. In the circumstances, it is the duty of the bank to facilitate the purchaser to take possession of the property by properly handing over it to the purchaser or else to refund the

sale consideration paid, with 9% interest as per the banking practice, from the date of payment made by the purchaser till the date of refund, within a period of three months from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssk

To:

- 1 The Chief Manager /
Authorised Officer
Indian Bank
Asset Recovery Management Branch
Circle Office Building
Fourth Floor No.55 Ethiraj Salai
Chennai-600 008.
- 2 The CEO & Managing Director
Head Office
Indian Bank 66 Rajaji Salai
Chennai-600 001.

+1cc to Mr.Rajavel, Advocate, S.R.No.18172

+1cc to Mr.Aiyar & dolia, Advocate, S.R.No.18233

सत्यमेव जयते

W.P.No.26914 of 2016

ssi(co)
rmp(13/04/17)

WEB COPY