



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2017

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CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

**W.P. [MD] .No.7220 of 2017
and**

W.M.P. (MD) No.5689 of 2017

J.Nanthini

: Petitioner

Vs.

1. The Union of India,
Rep by the Secretary,
Ministry of Finance,
Shastri Bhawan, New Delhi 160 001.

2. The Branch Manager,
Repco Home Finance Limited,
Nos.6&7, First Floor, Dennison Road,
Nagercoil, Kanyakumari District.

3. The District Collector,
Kanyakumari District, at Nagercoil.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring the imprinting of the message on the face of the petitioner's Dwelling House in Tamil by the second respondent meaning as "the enterers without permission will be prosecuted and also this property is under mortgage with Repco Home Finance and default in payment of loan appropriate action is proposed" as illegal.

For Petitioner : Mr.A.Rajkumar Sen

For Respondent No.1 : Mr.Palpandi
Central Government Standing Counsel

For Respondent No.2 : Mr.Pala Ramasamy
Standing Counsel

For Respondent No.3 : Mr.S.Chandrasekar
Government Advocate

**O R D E R***********

WEB COPY [Order of the Court was made by **T.S.SIVAGNANAM, J.**]

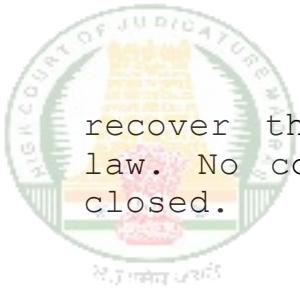
Heard Mr.A.Rajkumar Sen, learned counsel appearing for the petitioner, Mr.Palpandi, learned Central Government Standing Counsel appearing for the first respondent, Mr.Pala Ramasamy, learned Standing Counsel appearing for the second respondent and Mr.S.Chandrasekar, learned Government Advocate, appearing for the third respondent. By consent, the Writ Petition is taken up for final disposal at the stage of admission itself.

2. The petitioner, who is a borrower of housing loan from the second respondent bank, is aggrieved by the action of the second respondent bank in affixing notice on the property of the petitioner, which is a warning notice to the general public that they should not enter into the property and if anybody enters into the property, they will be prosecuted.

3. The case of the petitioner is that when she had gone to Coimbatore, locking the house, the officials of the second respondent bank had affixed the warning notice on the main gate as well as on the outer wall of the premises. Therefore, the petitioner seeks for removing the said notices.

4. Admittedly, the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the SARFAESI Act") do not provide for such procedure, i.e., to fix warning notice on the property. It is not in dispute that in the instant case, the second respondent bank has not proceeded for recovery of the loan amount by resorting to the provisions of the SARFAESI Act. In fact, in the notice dated 11.04.2017, the second respondent bank has given ten days time to the petitioner to pay the total dues of Rs.49,97,839/-, failing which it was informed that action would be taken against the petitioner under the provisions of the SARFAESI Act to realize the dues. Therefore, the second respondent bank should proceed further in the matter, if the petitioner has not repaid the loan amount within the time period and should not resort to fixing notice or warning notice on the property.

5. In the light of the above, the Writ Petition is disposed of with a direction to the second respondent bank to remove the notices affixed on the property of the petitioner within a period of three days from the date of receipt of a copy of this order, failing which it is open to the petitioner to remove the notices by herself. It is left open to the second respondent bank to



recover the loan amount from the petitioner in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

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/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
The Union of India,
Ministry of Finance,
Shastri Bhawan, New Delhi 160 001.
2. The District Collector,
Kanyakumari District, at Nagercoil.

+1cc to Mr.Pala Ramasamy, Advocate Sr.No.53040
+1cc to Spl.Government Pleader Sr.No.53398
+1cc to Mr.Palpandi, Advocate Sr.No.52921
+1cc to Mr.A.Rajkumar Sen, Advocate Sr.No.52897

nb

vb/jc/04.05.2017/3p/7c

**ORDER MADE IN
W.P. [MD] .No.7220 of 2017
20.04.2017**