HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

Writ Petition No.5596 of 2011

ORDER:

The petitioners herein have invoked the jurisdiction of this Court seeking a mandamus to declare the action of the respondents, in threatening to take coercive steps against them and their property and in demanding that they pay Rs.5,04,709/- as against the actual discharge amount of Rs.4,62,322/-, as arbitrary and illegal.

The petitioners' case, in short, is that they availed a loan facility of Rs.3,24,000/- from the respondent-Bank, which was liable to be paid in 60 monthly installments; they had already paid more than Rs.2.89 lakhs; and instead of charging quarterly interest the respondent-Bank had charged monthly interest.

The respondent-Bank had initiated proceedings under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short the "SARFAESI Act") in Crl.M.P.No.84 of 2010 pursuant to the notice issued earlier under Section 13(2) of the SARFAESI Act dated 26.07.2007, and thereafter under Section 13(4) of the said Act. In the petition filed by them under Section 14 of the SARFAESI Act, the respondent-Bank contended that, though notice was issued under Section 13(4), possession could not be taken; the petitioners had filed W.P.No.19870 of 2010 which was dismissed on 20.09.2010 holding that it was for the petitioners to approach the respondent-Bank; the petitioners had approached the respondent-Bank on 11.02.2011, contending that the amount liable to be paid by them was Rs.4,62,322/-, and not Rs.5,04,709/-, they were ready and willing to pay Rs.4,62,322/-, and on payment of the said amount, the respondent-Bank should release the documents; but to no avail.

This Court passed an interim order in WPMP No.6957 of 2011 on 16.03.2011 granting interim stay of all further proceedings in case the petitioners deposited Rs.4,62,322/- with penal interest within a period of two weeks.

It is not known whether the petitioners had paid the said amount within the time stipulated by this Court. In case the petitioners have paid the said amount, they are permitted to submit a representation requesting the respondent-Bank to consider waiving the balance amount which represents the interest computed at monthly rests instead of quarterly rests, and the respondent-Bank shall consider the same in accordance with law. In case the petitioners have not paid the admitted amount of Rs.4,62,322/-, despite the interim order passed by this court, it is then open to the respondent-Bank to proceed and take action, against the petitioners, for recovery of the entire amount due in accordance with law.

The Writ Petition is, accordingly, disposed of. The Miscellaneous Petitions pending, if any, shall also stand disposed of. No order as to costs.

RAMESH RANGANATHAN, ACJ.

Date:15.12.2017.
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