

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.7554 OF 2017

ORDER: (*Per Hon'ble The Acting Chief Justice Ramesh Ranganathan*)

An affidavit of undertaking is filed by the 2nd petitioner to the effect that he would deposit a sum of Rs.10,00,000/-, within one week from today, and the remaining balance within three weeks thereafter; and if they fail to adhere to these conditions, the respondent-bank is at liberty to proceed with auction of the mortgaged property, in accordance with law. It is further stated that the 1st petitioner has gone into depression and, as such, the 2nd petitioner is filing the undertaking affidavit on her behalf also.

Sri K.S.R. Murthy, learned counsel for the respondent-bank, would submit that the time sought, in terms of the present undertaking, goes even beyond the time sought for in the writ affidavit, which is only upto 31.03.2017; and if the 2nd petitioner undertakes to pay Rs.20,00,000/- within one week from today, the respondent-bank is willing to wait for three more weeks thereafter, for him to pay the balance amount.

The 2nd petitioner is present in Court. Sri Challa Dhanamjaya, learned counsel appearing on behalf of the petitioners, on instructions from the 2nd petitioner, undertakes that the 2nd petitioner shall pay Rs.20,00,000/- to the respondent-bank within one week from today, and the remaining balance amount within three weeks thereafter.

As the respondent-bank is agreeable to these terms, we dispose of the writ petition, in terms of the undertaking, directing the 2nd petitioner to deposit Rs.20,00,000/- with the respondent-bank within one week from

today, and the remaining amount due within three weeks thereafter. In case the petitioners fail to pay the said sum of Rs.20,00,000/-, within the aforesaid time stipulated of one week from today, it is open to the respondent-bank to proceed, and put the subject property to sale in accordance with law.

Sri Challa Dhanamjaya, learned counsel for the petitioners, would request this Court to put the petitioners back in possession of the subject property on their making payment of Rs.20,00,000/-, within the aforesaid period of one week, and would submit that the 2nd petitioner, who is present in Court, undertakes that, in case they fail to make payment of the balance amount within three weeks thereafter (in all a period of four weeks from today), they would voluntarily, unconditionally and peacefully vacate the subject premises and hand over possession of the subject building to the respondent-bank.

When we asked Sri Challa Dhanamjaya, learned counsel for the petitioners, whether the 2nd petitioner, who is present in Court today, is aware of the consequences of violating a solemn undertaking given to this Court, learned counsel would submit that the 2nd petitioner has been appraised of the consequences, and the undertaking has been furnished with a complete sense of responsibility, and on his being aware of the need to adhere to the undertaking furnished to this Court. As Sri K.S.R. Murthy, learned standing counsel, expresses concurrence, we direct the respondent-bank to put the petitioners back in possession of the subject building in case they pay Rs.20,00,000/- lakhs to the respondent-bank within one week from today. We make it clear that, in case the petitioners fail to pay the balance amount within the stipulated period of three weeks thereafter, the respondent-bank shall take possession of the subject

property without any further recourse to this Court, and put the subject building to sale, for recovery of the balance amount due, in accordance with law.

The writ petition is, accordingly, disposed of. As a sequel, pending miscellaneous petitions, if any, shall stand dismissed. No order as to costs.

RAMESH RANGANATHAN, ACJ

Dr. SHAMEEM AKTHER, J

Date: 21-03-2017.

Note: Issue cc in two days
(B/O)
DSH/SIVA



HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

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HON'BLE Dr. JUSTICE SHAMEEM AKTHER



22032017

WRIT PETITION No.7554 OF 2017

(Order of the Division Bench delivered by
Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Date. 21-03-2017

DSH/SIVA