

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13/3/2018

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.5530 of 2018

P.Ponlingam

... Petitioner

Vs

1. Central Bank of India
rep. By its Chief Manager
Tirupur Branch.
2. The Recovery Officer
Debt Recovery Tribunal
Coimbatore.
3. M/s. Kauvery Overseas Limited
rep. By its Managing Director
Mr.S.Chinnasamy
No.73/1 Poochakadu, 3rd Street
Karuvampalayam, Mangalam Road
Tiruppur 641 604.
4. C. Samiappan.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of mandamus to direct the Debt Recovery Tribunal, Coimbatore for speedy disposal of the case in A.P.No.3 of 2016 in time Frame.

For petitioner ... Mr.N.Chinnaraj

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O R D E R

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

M/s. Kauvery Overseas Limited, Tiruppur, represented by its Managing Director Mr.S.Chinnasamy, third respondent, is the borrower. Mr.C.Samiappan, S/o. Chinnasamy Gounder, Tiruppur, respondent No.4 is the guarantor. For default, Bank has brought

the guarantor's property for sale. By virtue of the recovery certificate, auction was conducted, on 20/6/2014. Petitioner is the auction purchaser.

2. Being aggrieved, guarantor has filed appeal No.3 of 2016, on the file of the Debts Recovery Tribunal, Coimbatore, in which writ petitioner has filed counter affidavit, on 6/11/2016. According to the petitioner, for the purpose of taking adjournment, one Mr. Shanmugam has filed impleading petition in I.A.No.496 of 2017. Petitioner has further contended that the proposed respondent is in no way connected with the proceedings of the Tribunal. Adjournments are granted. Contending inter alia that right to speedy disposal, under Article 21 of the Constitution of India is recognised as a fundamental right, instant writ petition has been filed for a mandamus, directing the Debts Recovery Tribunal, Coimbatore, to dispose of A.P.No.3 of 2016, within a time frame fixed by this Court.

3. Heard Mr. Chinnarajan and perused the materials available on record.

4. Article 300 A envisages that right to property is a constitutional right. Right to redeem a property by the borrower/guarantor has been recognised by the Statute and the Hon'ble Supreme Court. When the fourth respondent guarantor has filed Appeal No.3 of 2016 against sale, auction purchaser is defending the same. Both are interested parties in the lis. Auction purchaser cannot have more grievance than the borrower/guarantor whose property has been sold in public auction. There are many SARFAESI applications filed under Section 17 of the Act, challenging the action of Banks, under Section 13 (4) of the SARFAESI Act, 2002. Petitioner cannot have any priority in the matter of disposal of Appeal No.3 of 2016.

5. For the above reasons, instant writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mvs

To

1. The Chief Manager
Central Bank of India
Tirupur Branch.
2. The Recovery Officer
Debt Recovery Tribunal
Coimbatore.

W.P.No.5530 of 2018

BR(CO)

RRK(10/04/2018)



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