

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2018

CORAM :

The Hon'ble Mrs.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.23228 of 2018
and W.M.P.Nos.27116 and 27117 of 2018

- 1.Jawahar Gopal
- 2.Manohar Gopal
- 3.Dhiren Gopal

Rep. by their Power of Attorney
Agent, Raju Gupta.

... Petitioners

-vs-

- 1.Indian Bank
Kotturpuram Branch,
No.32, Ponniyammann Koil Street,
Kotturpuram, Chennai 600 085.
- 2.Srividhya Rajesh
- 3.The Debt Recovery Tribunal-III,
Chennai, 5th Floor, Spencer Towers-I,
770A, Anna Salai Service Lane,
Anna Salai, Triplicane, Chennai 600 002.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration to declare that the possession taken by the First Respondent of the Apartments bearing No.B-115 on the First Floor in Featherlite Vaikuntam constructed on the Schedule A property measuring super built up area of 1317 square feet together with proportionate and corresponding undivided share of land 816 square feet out of schedule B Property with one car parking is illegal and ultravires the provisions of SARFAESI and Rules and consequently direct the First Respondent to handover possession of the said Apartment bearing No.B-115 on the First Floor in Featherlite Vaikuntam constructed on the scheduled A property measuring super built up area of 1317 square feet together with proportionate and corresponding undivided share of land 816 sq. ft. out of Schedule B property with one car parking.

For Petitioner : Mr.G.Vivekanand

For Respondents : Mrs.S.R.Sumathy for R-1

O R D E R

(Order of the Court was made by M.DURAI SWAMY, J.)

The petitioner has filed the above writ petition to issue a writ of declaration declaring that the possession taken by the First Respondent of the apartments bearing No.B-115 on the First Floor in 'Featherlite Vaikuntam' constructed on the 'A' Schedule property measuring super built up area of 1317 square feet together with proportionate and corresponding undivided share of land 816 square feet out of schedule 'B' Property with one car parking as illegal and null and void.

2.It is the case of the petitioners that the first respondent-bank had initiated proceedings under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (in short 'SARFAESI') without even issuing any notice to them.

3.The learned counsel appearing for the petitioners submitted that the initiation of proceedings under the SARFAESI Act against ***the second respondent** without even issuing any notice either under Section 13 (2) or under Section 13 (4) is illegal and liable to be set aside.

4.Mrs.S.R.Sumathy, learned counsel, taking notice on behalf of the first respondent-bank, submitted that the first respondent-bank would furnish a copy of the notices on or before 12.09.2018 and she would instruct the first respondent-bank to maintain status quo till 14.09.2018 ***is to continue till 17.09.2018** enabling the petitioners to re-present the S.A. preferred by them before the Debts Recovery Tribunal, Chennai.

5.The learned counsel appearing for the petitioners submitted that till 14.09.2018, the first respondent-bank may be directed to maintain status quo.

6.In view of the submission of the learned counsel on either side, we direct the first respondent-bank to furnish a copy of the notices issued under Section 13(2) and 13(4) of the SARFAESI Act, to the petitioners on or before 12.09.2018 and the first respondent is directed to maintain status quo till 14.09.2018 enabling the petitioners to re-present the S.A. preferred by them before the Debts Recovery Tribunal, Chennai.

With the above observations, the writ petition is disposed of. No costs. Consequently, W.M.P.Nos.27116 and 27117 of 2018 are closed.

Sd/-
Deputy Registrar

***Amended as per order dated
12.09.2018 in WP.No.23228/2018
-s/d-
Assistant Registrar(CSV)
dated 12/09/2018**

//True Copy//

Sub Assistant Registrar

sra

To

1.The Debts Recovery Tribunal-III, (To be substitute order
5th Floor, Spencer Towers-I, (already despatched on
770A, Anna Salai Service Lane, (12.09.2018)
Anna Salai, Chennai 600 002.

+1cc to Mr.Suraj Govindaraj, Advocate SR.NO.62102

+1cc to M/s.S.R.Sumathy, Advocate SR.NO.62040

+2 ccs to Mr.Suraj Govindaraj Advocate sr 63323 dt 12/09

sm:10.9.2018

gsp12/09/2018

W.P.No.23228 of 2018

सत्यमेव जयते
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