

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18629 of 2017
and
W.M.P.No.20170 of 2017

R.Angamuthu .. Petitioner

Vs.

The Authorised Officer,
Central Bank of India,
Regional Officer,
No.14 & 15, Variety Hall Road,
Coimbatore-641 001. .. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the impugned respondent order in Ro/Coim/RECV/2017-18 dated 13.06.2017 and quash the same.

For Petitioner : Mr.S.Kolandasamy

For Respondent : Mr.T.M.Hariharan

ORDER

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

E-Auction notice dated 13.06.2017, challenged in the instant writ petition, is as follows:-

"Central Bank of India
Regional Officer, 14&15, Variety Hall Road,
Coimbatore:641001
RO/COIM/RECV/2017-18/ 13.06.2017
Mr.Angamuthu, No 19, Rajiv Gandhi Nagar,
Malumichampatti.
Coimbatore.

Reg: Sale of Secured Asset under SARFAESI Act

With reference to above, We would like to draw your kind attention to the Demand Notice dated 28.11.2013, issued

to your U/s 13(2) of the SARFAESI ACT and also the Possession Notice dated 21.02.2014, issued to you U/s 13 (4) of the SARFAESI Act.

Now this is to inform you that the Secured Assets mentioned in the above referred notices are being brought for sale through public auction, in conformity with the provisions of SARFAESI Act and Security Interest (Enforcement) Rules, 2002. The E-Auction will be conducted on 30.06.2017 with the reserve price of Rs.28.92 Lakhs (Rupees Twenty eight lakhs ninety two thousand Only)

You may contact the respective branch for any further details regarding the same.

This is for your kind information.

Authorised Officer,
Central Bank of India,"

2. On 21.07.2017, we granted the following order:-

"Material on record, discloses that on 5/1/2017, Bank has issued a letter to the borrower, intimating that e-auction of the secured assets, would be conducted, on 9/2/2017, with reserve price of Rs.32.50,000/-. It is the contention of the learned counsel for the petitioner that after issuance of the said notice, a sum of Rs.8,45,000/- has been paid. Supporting the above, he also drew the attention of this Court, to page No.18 of the typed set of papers, where the petitioner has enclosed the receipt for payment.

2. We have gone through the same.

3. On 13/6/2017, Bank has issued a letter, to the petitioner, intimating that e-auction would be conducted, on 30/6/2017, with the reserve price of Rs.28.92 lakhs. Contending inter alia that the subject property mortgaged is a house property and that the petitioner is willing to pay the loan amount, excluding interest, Mr.S.Kolandasamy, learned counsel for the petitioner offered to make payment of Rs.10 lakhs (Rupees Ten lakhs only) in two equated instalments, for discharging the loan.

4. Considering the difficulty in mobilising the funds, as expressed by the learned counsel for the petitioner, and taking note of the bona fides, we deem it fit to order notice of motion, to the respondent, returnable through Court and privately, by 15/9/2017.

5. There shall be an order of interim stay of the impugned proceeding, on condition that the petitioner would make payment of Rs.5 lakhs (Rupees Five lakhs only), as the first instalment, within four weeks, from today and thereafter, the balance of Rs.5 lakhs (Rupees

Five lakhs only), as the second instalment, within four weeks, thereafter. It is made clear that failure to comply with the conditions stated supra, the interim order granted shall stand vacated, without any further reference to this Court.

6. Post on 15/9/2017."

3. Subsequently, interim order has been extended.

4. On this day, when the matter came up for hearing, Mr.S.Kolandasamy, learned counsel for the petitioner and Mr.T.M.Hariharan, learned counsel for the bank/respondent herein, submitted that, subsequently bank has accepted the one time proposal and consequently, the loan account has been settled.

5. However, Mr.S.Kolandasamy, learned counsel for the borrower submitted that the original title deeds deposited with the bank, have to be returned and prayed for suitable directions.

6. Mr.T.M.Hariharan, learned counsel for the bank/respondent herein, submitted that, within two weeks, the title deeds would be returned to the borrower. Submission of the parties is placed on record.

7. In view of the above submissions, nothing survives in this writ petition for further adjudication. Accordingly, the writ petition is disposed of. No Costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

dm

+1cc to Mr.S.KOLANDASAMY, Advocate, S.R.No. 28253

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TR(20/04/2018)