

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.09.2018

CORAM :
THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE
AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.24995 of 2018 and
W.M.P.Nos.29029 to 29031 of 2018

1 P.Muthuswamy
2 Mrs.Rajeswari
3 P.M.Ramakrishnan ... Petitioners

v.

1. The Authorised Officer
P N B Housing Finance Ltd.
14, Sudharsan Building III Floor
Whites Road, Chennai-600 014.
2. The Branch Manager
P N B Housing Finance Ltd.
14, Sudharsan Building III Floor
Whites Road, Chennai-600 014.
3. The Inspector of Police
K4 Police Station
Anna Nagar, Chennai-600 040.
4. Vikramsingh Preetamsingh Chhabria

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus, directing the respondents 1 & 2 to accept the payment of the legitimate dues by the petitioners in the loan account No.00116660002537 and permit the petitioners to discharge the debt due and release the mortgaged property at Plot No.5078, Door No.32/18, Ward No.66, Z-Block, 11th Street, Anna Nagar, Chennai-600 040 comprised in Town Survey No.289/3, Block No.2 of Mullam Village, Chennai, the land measuring an extent of one ground and 1567 sq. feet (368.54 sq.meter) secured for the said loan by setting aside the illegal sale in favour of the 4th respondent evidenced in Sale Deed dated 01.08.2018 said to be pursuant to the sale certificate registered as Doc.No.3191 of 2018 pursuant to the untenable auction said to have been held on 22.06.2018.

For Petitioner : Mr Om Prakash, Senior Counsel
for Mr.A.Syed Haroon

For Respondents : Mr.T.Sai Krishnan
for M/s. Sai Bharath Associates
for R1 and R2

: Mr.Vishnu Mohan
for Mr.R.Parthasarathy - for R4

O R D E R

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

The petitioners have filed the above writ petition to issue a Writ of Mandamus, directing the respondents 1 and 2 to accept the payment of the legitimate dues by the petitioners in the loan account and permit the petitioners to discharge the debt due and release the mortgaged property at Plot No.5078, Door No.32/18, Ward No.66, Z-Block, 11th Street, Anna Nagar, Chennai-600 040, measuring an extent of 1567 sq. feet secured for the said loan by setting aside the illegal sale in favour of the 4th respondent evidenced in sale deed dated 01.08.2018 said to be pursuant to the sale certificate registered as Document No.3191 of 2018 pursuant to the auction held on 22.06.2018.

2. The petitioners have filed S.A.No.157 of 2018 on the file of the Debts Recovery Tribunal II, Chennai, to call for all the information pursuant to the SARFAESI proceedings initiated by the respondent bank with reference to the sale conducted on 22.06.2018 and to set aside the same.

3. Admittedly, the property was sold in the auction held on 22.06.2018 in favour of the 4th respondent. Now, the petitioners have filed the writ petition to issue a Writ of Mandamus to give a direction to the respondents 1 and 2 to accept the payment of the legitimate dues by the petitioners and to discharge the debt due and release the mortgaged property.

4. The petitioners have challenged the auction held on 22.06.2017 in S.A.No.157 of 2018 on the file of the Debts Recovery Tribunal II, Chennai. Unless the sale made in favour of the 4th respondent is set aside by the Tribunal, the petitioners cannot seek to deposit the outstanding amount and for the release of the mortgaged property. The issue can be decided only in S.A.No.157 of 2018. Only if the sale made in favour of the 4th respondent is set aside, the petitioners can seek for settlement of the loan amount. The Debts Recovery Tribunal II, Chennai shall decide the S.A.No.157 of 2018, on merits and in accordance with law.

5. In these circumstances, the writ petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Rj

To

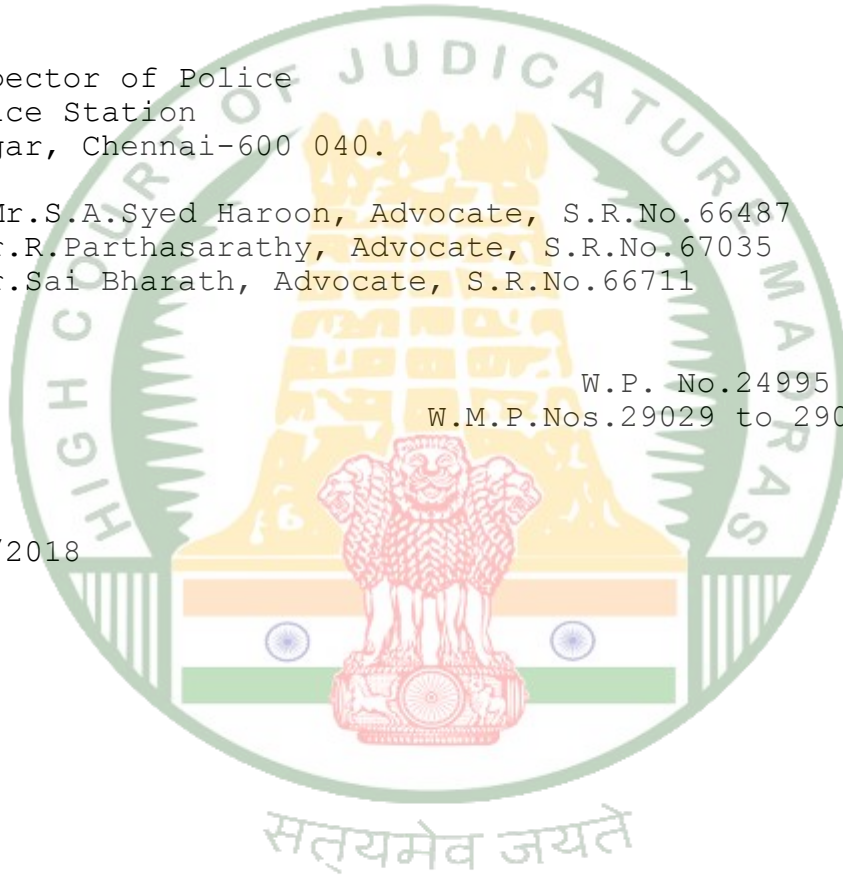
The Inspector of Police
K4 Police Station
Anna Nagar, Chennai-600 040.

+2ccs to Mr.S.A.Syed Haroon, Advocate, S.R.No.66487
+1cc to Mr.R.Parthasarathy, Advocate, S.R.No.67035
+1cc to Mr.Sai Bharath, Advocate, S.R.No.66711

W.P. No.24995 of 2018 and
W.M.P.Nos.29029 to 29031 of 2018

RSK(CO)

rrs 12/10/2018



WEB COPY