

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH
and
THE HON'BLE MR. JUSTICE M.V. MURALIDARAN

W.P. No.27510 of 2017

T. Ashok Surana :Petitioner/Party in person

vs.

1 The Presiding Officer
Hon'ble Debts Recovery Tribunal - III, Chennai
V Floor, Spencer Tower
770 A Anna Salai
Chennai - 600 002

2 The Authorised Officer
Indian Bank
ARMB 1 Branch
55 Ethiraj Salai
Egmore
Chennai 600 008 : Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of declaration declaring that the order passed in MA SR No.3963 of 2015 dated 07.04.2017 in SA No.73 of 2011 is downright illegal, reeking of legal misconduct on the part of the first respondent, against the mandatory provisions of Section 19 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act and for this Hon'ble Court to direct the first respondent to restore the same on its file, number it and pass orders on restitution in accordance with law and not at the whims and fancies of the first respondent.

For petitioner : Mr. T. Ashok Surana - Party in person

For R2 : Mr. Jayesh B. Dolia
for M/s. Aiyar & Dolia

For R1 : Tribunal

ORDER

(Order of the Court was made by P.N. PRAKASH, J.)

This writ petition has been preferred seeking the following prayer:

"a writ of declaration declaring that the order passed in MA SR No.3963 of 2015 dated 07.04.2017 in SA No.73 of 2011 is downright illegal, reeking of legal misconduct on the part of the first respondent, against the mandatory provisions of Section 19 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act and for this Hon'ble Court to direct the first respondent to restore the same on its file, number it and pass orders on restitution in accordance with law and not at the whims and fancies of the first respondent."

2 Indian Bank issued sale notice dated 18.02.2011, challenging which the petitioner preferred an application in S.A. No.73 of 2011 before the Debts Recovery Tribunal-III, Chennai (for short "the DRT"), which was allowed on 21.06.2013. Thereafter, the petitioner filed M.A.S.R. No.3963 of 2015 in S.A. No.73 of 2011 seeking compensation and costs on the ground that he was forcibly dispossessed by Indian Bank from the property that was mortgaged with it. The DRT dismissed M.A.S.R. No.3963 of 2015 vide order dated 07.04.2017, challenging which, the petitioner is before this Court.

3 Heard the petitioner, who appeared as party in person and Mr.Jayesh B. Dolia, learned Standing Counsel for the second respondent/Indian Bank.

4 The petitioner contended that under Section 19 of the SAFAESI Act, a borrower is entitled to compensation and costs, if the possession of the secured asset was not taken by the secured creditor, viz., the bank, in accordance with the provisions of the said Act and the rules made thereunder. Thus, according to him, inasmuch as Indian Bank has dispossessed him in violation of the provisions of the statute, he is entitled to compensation and costs.

5 Per contra, the learned Standing Counsel for Indian Bank refuted the aforesaid contention.

6 At the outset, it may be necessary to state that S.A. No.73 of 2011 was hotly contested by the parties and while allowing S.A. No.73 of 2011 on 21.06.2013, the DRT categorically held "No order as to costs". Thus, costs have been denied by the DRT while allowing S.A. No.73 of 2011. That apart, the DRT,

in the order dated 07.04.2017 in M.A.S.R. No.3963 of 2015, has given a finding that the petitioner has categorically admitted that he was not dispossessed from the property. The petitioner, however, denies the said finding.

7 Be that as it may, the fact remains that even while allowing S.A.No.73 of 2011, the DRT had denied costs to the petitioner. Hence, this Court does not find any infirmity in the impugned order warranting interference.

In the result, this writ petition is dismissed, however, sans costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

cad

To

The Presiding Officer,
Debt Recovery Tribunal-III,
V Floor, Spencer Tower,
770-a Anna Salai,
Chennai-2.

+1 cc to Mr.Aiyar & Dolia, Advocate Sr.No.76161

W.P. No.27510 of 2017

SSV(CO)
CSL/05.12.2018

सत्यमेव जयते

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