

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Cont. Petition No.2374 of 2018

IDBI Bank Limited
Represented by its
Authorized Officer
Dr.Balasundaram Road
Off Avinashi Road
ATT Colony
Coimbatore - 641 018

... Petitioner

vs.

Harishankar
S/o.Late Mr.V.Natarajan

... Respondent

Contempt Petition filed under Section 11 of Contempt of Courts Act, 1971, to punish the respondent having wilfully violated the undertaking given by him which was recorded in the order dated 03.08.2018 passed in W.P. No.18264 of 2018.

For Petitioner : Mr.V.Suresh Kumar
for M/s.Shivakumar and Suresh

For Respondent : Mr.K.N.Nataraj

ORDER

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

Alleging disobedience of order of this court dated 03.08.2018 made in W.P. No.18264 of 2018, instant Contempt

Petition has been filed on 18.09.2018.

2. Placing on record the submission of the learned counsel for the proposed buyer, W.P. No.18264 of 2018, was disposed on 03.08.2018, as hereunder:

"6. Earlier, proposed buyer has filed an affidavit, dated 20/7/2018, stating that he would pay the entire amount of Rs.1,11,00,000/- , in two equated instalments and will make the first instalment, on 7/8/2018. Now, the learned counsel for the prospective buyer seeks extension of time for payment of the first instalment, by 10/8/2018, but made it clear that the second instalment would be made on or before 20/8/2018, as assured earlier. Submission of the learned counsel for the proposed buyer is placed on record.

7. First instalment of Rs.48.50 lakhs, shall be paid on or before 10/8/2018. Second instalment of a further sum of Rs.48.50 lakhs shall be paid on or before 20/8/2018. Earlier, on 23/7/2018, we observed that to show bona fides of the prospective purchaser, he must pay the entire amount of Rs.1.11 crores in two equated instalments. After deliberation, Bank has agreed to receive Rs.1.05 crores, after deducting the advance amount of Rs.10,50,000/-, to be paid by the prospective buyer to the tenant, which has been done.

8. On this day, prospective buyer has also taken a Demand Draft, bearing No.876332, dated 8/2/2018, drawn in favour of IDBI Bank Limited, for Rs.3,50,000/-On payment of Rs.97 lakhs, as agreed to be paid, by the prospective purchaser, in two equated instalments, the said amount be appropriated, as against the

outstanding debt with interest due thereon. Bank is directed to return the title and other documents, pertaining to the subject property, mortgaged with the Bank, so as to enable the writ petitioner/borrower, to execute a sale deed, in respect of the said property, to and in favour of the proposed buyer Mr.N.Harisankar, within a period of one week, thereafter.

9. Mrs.Saraswathi, residing at No.244/2B, Flat No.207, Block D, Second floor, Marigold Apartments, Raheja Enclave, Race Course, Coimbatore, tenant, is directed to handover physical possession to the prospective buyer, as per the affidavit of undertaking filed before this Court, failing which, it is made clear that the matter will be viewed seriously, warranting action, under the provisions of the contempt of Courts Act, if any. Before parting with, we make it clear that for realisation of any balance debt amount, it is open to the Bank to seek recourse in the manner known to law. सत्यमेव जयते

10. With the above direction, writ petition is disposed of. No costs."

3. On this day, when the Contempt Petition, came up for hearing, Mr.V.Suresh, learned counsel for the petitioner submitted that, as per the undertaking, the first installment of Rs.48.50 Lakhs should be paid on or before 10.08.2018, which has been done. As per the

have been paid on or before 20.08.2018. Since the same was not done, instant contempt petition was filed on 18.09.2018.

4. However, learned counsel for the petitioner submitted that the balance amount was paid on 24.08.2018.

5. We have heard the learned counsel for the petitioner and perused the materials available on record.

6. Though there is a delay in payment, we find from the materials on record, the same is not intentional. There is no willful and deliberate act of contempt, warranting action under the provisions of the Contempt of Courts Act, 1971.

7. The balance amount paid is stated to be in a No Lien account. Petitioner is permitted to adjust it towards the sale consideration. Accordingly, the contempt petition is closed. No costs.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

asr

//Certified to be true copy//

Dated at Madras this the day of 2019.

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PS/19/11/2018