

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2018

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.25815 of 2018 and

W.M.P.No.30026 of 2018

1.R.Mohana
2.K.Rajaram

.. Petitioners

Vs.

1.M/s.REPCO Home Finance Ltd.,
343, Thangam Pattu Maligai,
1st Floor, Co-operative Building,
Bazaar Street, Salem - 636 001
rep by its Authorized Officer

2.S.Vinitha

3.The Debt Recovery Appellate Tribunal,
Chennai, 4th Floor, Indian Bank Building,
No.55, Ethiraj Salai, Egmore,
Chennai - 600 008.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus calling for the records of the 3rd respondent made in R.A.(SA). No.120 of 2014 dated 30.08.2018 and to quash the same and consequently to declare that the SARFAESI action initiated by the 1st respondent in respect of the property land and building bearing Plot No.20, measuring an extent of 1350 sq.ft. in Re-survey No.253/4 situated at Kannankurichi Village, Salem Taluk and District as null and void.

For Petitioners : Mr.B.Nedunchezian

For Respondents : Mr.A.Ilangovan (R1)
Mr.Thilak Narayanan (R2)
R3 - Tribunal

O R D E R

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

The petitioners have filed the above Writ Petition to issue a Writ of certiorarified mandamus calling for the records of the 3rd respondent made in R.A.(SA).No.120 of 2014 dated 30.08.2018 and to quash the same and consequently to declare that the SARFAESI action initiated by the 1st respondent in respect of the property land and building bearing Plot No.20, measuring an extent of 1350 sq.ft. in Re-survey No.253/4 situated at Kannankurichi Village, Salem Taluk and District as null and void.

2.Since the petitioners committed default in repaying the loan availed from the 1st respondent, they initiated proceedings under the SARFAESI Act. Challenging the Possession Notice dated 05.03.2008, the petitioners filed S.A.No.96 of 2008 before the Debts Recovery Tribunal, Coimbatore. After the bifurcation of jurisdiction, the said appeal was transferred to Debts Recovery Tribunal, Madurai and renumbered as T.S.A.No.46 of 2008. Subsequently, by the order passed by this Court in W.P.No.23532 of 2009, the petitioners have also challenged the sale notice dated 18.09.2009 in T.S.A.No.46 of 2008, by impleading the auction purchaser, who is the 2nd respondent in this Writ Petition. The Debts Recovery Tribunal, Madurai, by order dated 06.08.2014, dismissed T.S.A.No.46 of 2008. Aggrieved over the same, the petitioners filed an appeal in R.A.(SA).No.120 of 2014 before the Debt Recovery Appellate Tribunal, Chennai and the Debt Recovery Appellate Tribunal also dismissed the appeal and confirmed the order of the Debts Recovery Tribunal.

3.The learned counsel appearing for the respondents 1 & 2 submitted that the sale was conducted on 31.10.2009 and was confirmed in favour of the 2nd respondent on the same day and the sale certificate was issued on 30.03.2010 and the sale certificate was also registered on 21.04.2010 in the Office of the Sub Registrar, Salem.

4.Therefore, from the above, it is clear that the petitioners are questioning the sale certificate dated 30.03.2010 after a lapse of eight years. The Debts Recovery Tribunal had taken into consideration the valuation of the Bank, guideline value and the forced sale value before conducting the auction sale. The Tribunal below also took into consideration that belated payments made by the petitioners. Since the sale has been conducted in a proper manner, the Debts Recovery Tribunal and Debt Recovery Appellate Tribunal rightly declined to interfere with the same.

5.In these circumstances, we do not find any ground to interfere with the order passed by the Debt Recovery Appellate Tribunal, Chennai and Debts Recovery Tribunal, Madurai. Accordingly, the Writ Petition is dismissed. No costs. consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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+1cc to Mr.B.Thilak Narayanan, Advocate Sr.82529

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srg 19/12/2018