



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.5007 of 2018
and
W.M.P(MD)No.4992 of 2018

A.Litwin Letisia

... Petitioner

Vs.

1.The District Collector/Executive Magistrate,
Madurai District,
Madurai.

2.The Commissioner of Police,
Madurai City,
Madurai.

3.The Authorized Officer,
Bajaj Finance Ltd.,
3rd Floor, S.S.Tower,
No.78/4, Bypass Road,
Ponmeni, Madurai - 625 016.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for a writ of Certiorarified Mandamus to call for the records pertaining to the notice under Section 13(4) of the SARFAESI Act, dated 22.02.2018 issued by the third respondent and quash the same as void and illegal and thereby, restrain the respondents from taking any action in pursuance of the same with respect to the properties/buildings with Door Nos.30, 31, 32 and 33 in Ward No.3, Nadar Vidhyasalai, Madurai and also the buildings with Door No.95 in Ward No.1, East Veli Street, Near Christian Mission Hospital, Madurai.

For Petitioner : Mr.F.X.Eugene
For Respondents 1 & 2 : Mr.M.Jeyakumar,
Additional Government Pleader
For Respondent No.3 : Mr.I.Sudhakaran

ORDER

[Order of the Court was made by M.DURAI SWAMY, J.]



notice under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, dated 22.02.2018 issued by the third respondent and quash the same as void and illegal and thereby, restrain the respondents from taking any action in pursuance of the same with respect to the properties/buildings with Door Nos.30, 31, 32 and 33 in Ward No.3, Nadar Vidhyasalai, Madurai and also the buildings with Door No.95 in Ward No.1, East Veli Street, Near Christian Mission Hospital, Madurai.

2. Heard the submissions of Mr.F.X.Eugene, learned Counsel for the petitioner, Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents 1 and 2, and Mr.I.Sudhakaran, learned Counsel for the third respondent.

3. Mr.F.X.Eugene, learned Counsel for the petitioner submitted that the petitioner is undertaking to vacate the properties situated in Door Nos.30, 31, 32 and 33 in Ward No.3, Nadar Vidhyasalai, Madurai, on or before 30.06.2018 and in respect of the property situated in Door No.95 in Ward No.1, East Veli Street, Near Christian Mission Hospital, Madurai, on or before 30.07.2018 and also filed an affidavit of undertaking, dated 24.03.2018, to that effect.

4. Mr.I.Sudhakaran, learned Counsel for the third respondent, on instructions, submitted that the third respondent has no objection for granting time to the petitioner till 30.06.2018 in respect of the the properties situated in Door Nos.30, 31, 32 and 33 in Ward No.3, Nadar Vidhyasalai, Madurai and till 30.07.2018 in respect of the property situated in Door No.95 in Ward No.1, East Veli Street, Near Christian Mission Hospital, Madurai.

5. In paragraph 4 of the said affidavit of undertaking, the petitioner has stated as follows:

"4. I also humbly submit that, but due to our profession and our personal family situations, like loss of one of my sons and also due to the sickness of our another son and other circumstances of our family, decided to settle the debts due to the 3rd respondent company selling on of the too secured properties which were reliably offered to purchase, through the 3rd respondent, for a sale price of Rs.2,08,00,000/- (Rupees Two Crores Eight Lakhs Only), as we were communicated by the 3rd respondent's men.

a) Therefore I hereby undertake that this 3rd respondent could take steps, to alienate one of the secured properties, with buildings, with door nos.30, 31, 32 and 33, in ward no.3, Nadar Vidhya salai street, Madurai, to whomsoever concerned by negotiation and to return back the balance money to us, after adjusting the dues, to the 3rd respondent company.



- b) I also undertake to give the vacant possession by actual delivery of the same properties, on or before 30.06.2018.
- c) I also undertake that my husband and co-obligant would make sale with me and would not object or vary my stand. Therefore without making any necessity to alienate the other secured property with building no.95 in ward no.1 Eastveli Street, Madurai, the account due to the 3rd respondent company could be settled.
- d) And in such case if it is necessarily to give the actual possession of the same other property to be a given to 3rd respondent company, we would give actual deliver of the same also on 30.07.2018, provided if it is necessary that amount realise by sale of the above said property is not sufficient."

[extracted as such]

The said affidavit of undertaking filed by the petitioner is taken on record and the same shall form part of the record.

6. In view of the same, this writ petition is disposed of, in terms of the affidavit of undertaking, dated 24.03.2018, filed by the petitioner. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

1.The District Collector/Executive Magistrate,
Madurai District, Madurai.

2.The Commissioner of Police,
Madurai City, Madurai.

+1cc to M/S.F.X.Eugene, Advocate SR.No. 64572

+1cc to M/S.I.Sudhakaran, Advocate SR.No. 64607

+1cc to Special Government Pleader, SR.No. 64775

W.P (MD) No.5007 of 2018

and

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