IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAISWAMY

W.P. No.6110 of 2019 and
W.M.P.No.6940 of 2019

M.Thoufick .. Petitioner

Vs.

The Authorized Officer/Chief Manager,
Central Bank of India, Zonal Office,
49, 48, Montieth Road,
Egmore, Chennai - 600 008. .. Respondent

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus to direct the respondent to furnish the documents as sought for in the petitioner's letter dated 23.02.2019 the demand notice and the possession notice in respect of the petitioner's property bearing Flat No.B4, Plot No.5056, 5th Main Road, Ram Nagar North Extension, Madipakkam, Chennai - 600 088 within a specified time frame to enable the petitioner to proceed in accordance with law.

For Petitioner : Ms.M.Dhivya
for M/s.T.K.S.Gandhi

For Respondent : Mr.M.L.Ganesh

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAISWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of mandamus to direct the respondent to furnish the documents sought for in the petitioner's letter dated 23.02.2019, the demand notice and the possession notice in respect of the petitioner's property bearing Flat No.B4, Plot No.5056, 5th Main Road, Ram Nagar North Extension, Madipakkam, Chennai - 600 088 within a time frame to enable the petitioner to proceed in accordance with law.

2.It is the case of the petitioner that the respondent - Bank issued a possession notice to the borrower, from whom the petitioner had purchased a Flat measuring 1376 sq.ft. under a Sale Deed dated 15.07.2013.

3.Though the petitioner contended that his property was not mortgaged with the respondent - Bank, the learned counsel appearing for the respondent - Bank submitted that in S.A.No.22 of 2018 pending on the file of the Debts Recovery Tribunal - I, Chennai, which was filed by one Gururaj Krishnamoorthy, the SARFAESI measures in respect of the Flat belonging to the borrower viz., A.Sampath Kumar, an Advocate Commissioner was appointed and the learned Advocate Commissioner filed a report stating that the Flats mortgaged with the respondent - Bank are in Block - B. In view of the report filed by the Advocate Commissioner, the SARFAESI Appeal was disposed of by the Tribunal, observing that the respondent - Bank is at liberty to proceed against the Flat belonging to A.Sampath Kumar.

4.According to the respondent - Bank, the receipt produced by the petitioner dated 15.07.2013 for a sum of Rs.53 lakhs is a concocted document created for the purpose of the case. Further, the petitioner in the complaint made to the Inspector of Police, Madipakkam Police Station, on 09.02.2019, as against the Authorized Officer/AGM of the respondent - Bank, had mentioned that he is the owner of the Flat bearing No.B6, First Floor, whereas in the Construction Agreement, it has been stated that he is the owner of the Flat bearing No.B4. Since the borrower had defaulted in repaying the loan amount, the respondent - Bank had initiated measures under the SARFAESI Act.

5.If the petitioner is aggrieved over the possession notice, he should only approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act. When the petitioner is a 3rd party to the loan transaction, as a matter of right, he cannot ask the Bank to furnish the documents. The petitioner can collect the documents from his vendor for filing an appeal before the Debts Recovery Tribunal. In these circumstances, we find no merits in the Writ Petition. Accordingly, the same 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

The Authorized Officer/Chief Manager,
Central Bank of India, Zonal Office,
49, 48, Montieth Road,
Egmore, Chennai - 600 008.

+1cc to Mr.TSK.Gandhi, Advocate SR.No.33836

+1cc to Mr.ML.Ganesh, Advocate SR.No.33915

W.P.No.6110 of 2019 and
W.M.P.No.6940 of 2019

CP(CO)
GMY(07/05/2019)