



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2019

CORAM :

WEB COPY

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.Nos.19043, 19068, 19070,
19084, 19255 & 19261 of 2019 and
W.M.P.No.18402, 18425, 18429, 18433,
18445, 18684, 18687 & 18698 of 2019

G.Soundaravalli	.. Petitioner in W.P.No.19043/2019
P.Harikrishnan	.. Petitioner in W.P.No.19068/2019
1.Srinivasan Sriram	
2.Paliwal Jyoti Kirti Bhushan	.. Petitioners in W.P.No.19070/2019
Rubin Rajan	.. Petitioner in W.P.No.19084/2019
1.R.Neelavannan	
2.U.Rajalatchumy	.. Petitioners in W.P.No.19255/2019
Gayathri Ramgopal	.. Petitioner in W.P.No.19261/2019

Vs.

- 1.The Authorized Officer,
Dewan Housing Finance Corporation Limited (DHFL),
Registered Office: Warden House, 2nd Floor,
Sir P.M.Road, Fort, Mumbai - 400 001.
- 2.The Manager,
Dewan Housing Finance Corporation Limited (DHFL),
No.5F, Century Plaza,
No.560, 562, Anna Salai,
Teynampet, Chennai - 600 018.
- 3.M/s.Hallmark Infrastructure Private Limited,
rep by its Managing Director
Anand Jain,
Suit A, No.43 (Old No.62/2),
United Plaza, Usman Road,
T.Nagar, Chennai - 600 017. .. Respondents in all W.Ps

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of certiorari calling for the records relating to the impugned orders dated 11.06.2019 passed in I.A.Nos.1244, 1242, 1248, 1252, 1243 & 1245 of 2018 in AIR (SA).Nos.605, 602, 606, 607, 604 & 603 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai and quash the same.



For Petitioners : Mr.R.Saravana Kumar
(in all W.Ps)

C O M M O N O R D E R

WEB COPY (ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

Since the issue involved in all these Writ Petitions are identical and in respect of the same loan transaction, the Writ Petitions are disposed of by this common order.

2.Challenging the orders passed in S.A.Nos.480, 474 & 481 of 2016, M.A.No.80 of 2016 in S.A.(SR).No.7068 of 2016, S.A.Nos.477 & 476 of 2016 on the file of the Debts Recovery Tribunal - III, Chennai, the petitioners have filed appeals in AIR (SA).Nos.605, 602, 606, 607, 604 & 603 of 2018 respectively on the file of the Debt Recovery Appellate Tribunal, Chennai. The petitioners filed applications in I.A.Nos.1244, 1242, 1248, 1252, 1243 & 1245 of 2018 for waiver of pre-deposit. The Appellate Tribunal, by order dated 11.06.2019, directed the petitioners to make a pre-deposit of Rs.8 lakhs each within a period of four weeks.

3.Though the respondent - Bank claimed a sum of Rs.27.74 crores in the notices dated 07.10.2015 issued under Section 13 (2) of the SARFAESI Act, the Tribunal, taking into consideration that the petitioners had spent only a sum of Rs.30.18 lakhs for the purchase of the flats, directed the petitioners to make a pre-deposit of Rs.8 lakhs each.

4.Admittedly, the learned counsel appearing for the petitioners submitted that the petitioners had purchased the flats only in the year 2011, whereas the mortgage was made six months prior to their purchase.

5.Since the mortgage was prior to the date of purchase made by the petitioners, in view of the ratio laid down by the Division Bench of this Court in the judgment reported in 2019 (3) CTC 497 : 2019-2-L.W.961 [Sree Jeya Soundharam Textile Mills Pvt. Ltd., rep by its Managing Director, Perungudi Village, Sivagangai Vs. 1.Canara Bank, rep by its Manager P.N.Road Branch, Tirupur and others], the petitioners are liable to make the pre-deposit. In the judgment cited supra, in paragraph-22 (iii), it has been held as follows:

"22.

(iii)The 3rd parties who had purchased the property either after the date of mortgage or derived/accrued title or right or tenancy right in respect of the property in question or after the initiation of SARFAESI proceedings are liable to make



the pre-deposit and they should be treated on par with the borrower and the guarantor as per the provisions of both the Acts for the purpose of making pre-deposit.”

WEB COPY

6. In the case on hand, the Appellate Tribunal has rightly directed the petitioners to make the pre-deposit of Rs.8 lakhs each. We do not find any error or irregularity in the orders passed by the Appellate Tribunal. The Writ Petitions are devoid of merits and the same are liable to be dismissed. Accordingly, the Writ Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

va

+6 CCS to M/s. Veda Bagath Singh Advocate sr 57410, 57411, 57412, 57413, 57414, 57415.

W.P.Nos.19043, 19068, 19070,
19084, 19255 & 19261 of 2019 and
W.M.P.No.18402, 18425, 18429, 18433,
18445, 18684, 18687 & 18698 of 2019

MG (CO)
SP (14/08/2019)