

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2019

CORAM :

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.22244 of 2019

M/s.A & B Construction,
rep. by its Prop Mr.J.Ananthan,
No.7, Romain Rollad Street,
Puducherry-605 001.

Also at:
No.126, 3rd Main Road,
Kaveri Nagar,
Reddiyarpalayam,
Puducherry-605 010.

...Petitioner

-Vs-

Bank of India,
rep. by its Authorized Officer,
No.110, Jawaharlal Nehru Street,
1st Floor, Pondicherry-605 001.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondent to dispose of the representation dated 21.06.2019 and consequently direct the respondent to disclose all the details regarding the alleged sale conducted by the respondent Bank within the time frame fixed by this Hon'ble Court.

For Petitioner : Mr.R.R.Pradheep

For Respondents : Mr.K.Nazir Ahmed

ORDER

(Order of the Court was made by DR.VINEET KOTHARI,J.)

The present writ petition has been filed by the borrower, Thiru J.Ananthan, representing for M/s.A & B Construction, Puducherry, against whom recovery proceedings have been initiated by the respondent Bank under the provisions of the

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (herein after referred to as "SARFAESI Act").

2. The prayer made in this writ petition is that the respondent Bank should be directed to give details of the sale purportedly held by them on 29.05.2019.

3. The learned counsel for the respondent Bank, Mr.K.Nazir Ahmed, has filed a Memo before this Court today annexing copies of the sale notice dated 16.04.2019; postal receipt dated 16.04.2019 and the intimation of sale of secured assets dated 11.06.2019. Copies of the same have been supplied to the learned counsel for the petitioner.

4. The letter dated 11.06.2019 produced by the respondent Bank is addressed to the petitioner, M/s.A & B Construction, in which the sale of two flats by the respondent Bank was communicated to the petitioner.

5. The learned counsel for the petitioner, Mr.R.R.Pradheep, however, submits that the details of purchasers have not been given and, therefore, he is unable to challenge the sale notice and the sale in question before the Debts Recovery Tribunal under Section 17 of the SARFAESI Act.

6. Having heard the learned counsel for parties, we are satisfied that against any measures taken under Section 13 of the SARFAESI Act, the aggrieved party has an alternative remedy to approach the Debts Recovery Tribunal under Section 17 of the said Act. Therefore, in these circumstances, we are disposing of the writ petition by relegating the petitioner to challenge the recovery proceedings under Section 17 of the said Act. If application under Section 17 of the Act is filed within thirty days from today, the Debts Recovery Tribunal shall not raise the issue of expiry of limitation in this regard. The Debts Recovery Tribunal is requested to ensure that principles of natural justice were to be complied with by the respondent Bank by furnishing the requisite documents to the petitioner.

7. It was also brought to our notice by the learned counsel appearing for the respondent Bank that upon the sale of Flats in question in favour of the purchasers, the present petitioner has not handed over the keys of the said Flats in question and that is why he has been advised in the communication dated 11.06.2019 to hand over the keys of referred Flats peacefully to the Authorized Officer of the respondent Bank. In these circumstances, we direct the petitioner to hand over the keys of the Flats in question to the Authorized Officer of the respondent Bank within a period of one week from today and

report the same before the Debts Recovery Tribunal. Upon handing over of the keys by the petitioner, the Authorized Officer of the respondent Bank shall furnish details of the purchasers of Flats in question to the petitioner within one week thereafter.

8. With these observations and directions, the writ petition is disposed of. No costs.

bbr

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Authorized Officer,
Bank of India,
No.110, Jawaharlal Nehru Street,
1st Floor, Pondicherry-605 001.

2. The Debts Recovery Tribunal -III,
Chennai.

+1cc to Mr.G.Senthil Kumar, Advocate, SR.No.81277
+1cc to Mr.K.Nazir Ahmed, Advocate, SR.No.81033

W.P.No.22244 of 2019

Kak(27/09/2019)

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