

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2019

CORAM :

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

W.P.No.28037 of 2019 and
WMP.No.27658 of 2019

M/s.VIP Grand Properties
Represented by its Managing Partner
K.Raja
No.5/359 State Bank Colony
Junction Main Road,
Salem- 636 004.

.. Petitioner

-vs-

M/s.Asset Reconstruction Company India Limited
Represented by its Authorized Officer,
The Ruby, 10th Floor
29, Senapati Bapat Marg
Dadar (West)
Mumbai-400 028.

.. Respondent

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records of the respondent in its letter dated 28.06.2019 bearing Ref.BGII/VT/FY20/247 and quash the same as illegal, arbitrary and violative of the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, and Security Interest (Enforcement) Rules 2002, and consequently direct the Respondent to refund the 25% of sale price amounting to Rs.1,38,77,500/- deposited by the petitioner in pursuance of auction sale conducted on 30.03.2019, along with interest at the rate of 1.5% per month from 01.04.2019 to till the date of realization, by considering the petitioner representation dated 02.08.2019, in view of the fact that the said auction sale having become defective, illegal and vitiated for violation of mandatory provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, and Security Interest (Enforcement) Rules, 2002.

For Petitioner : Mr.Ohm Prakash
Senior Counsel
For Mr.S.Arunkungumaraj

For Respondent : Mr.V.V.Sivakumar Chethan
(R1) for Dua Associates

O R D E R

(Order of the Court was made by The Hon'ble Acting Chief Justice)

The petitioner has filed this Writ Petition seeking for the following relief

"to call for the records of the respondent in its letter dated 28.06.2019 bearing Ref.BGII/VT/FY20/247 and quash the same as illegal, arbitrary and violative of the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, and Security Interest (Enforcement) Rules 2002, and consequently direct the Respondent to refund the 25% of sale price amounting to Rs.1,38,77,500/- deposited by the petitioner in pursuance of auction sale conducted on 30.03.2019, along with interest at the rate of 1.5% per month from 01.04.2019 to till the date of realization, by considering the petitioner representation dated 02.08.2019, in view of the fact that the said auction sale having become defective, illegal and vitiated for violation of mandatory provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, and Security Interest (Enforcement) Rules, 2002."

2.The only dispute between the parties is that the Respondent-Company agreed to refund the amount of Rs.1,38,77,500/- to the petitioner. As they failed to disclose the encumbrance of property in question, the interest @ 1.5% per month on the disputed amount is claimed by the petitioner which according to the learned counsel for the respondent comes to Rs.1,45,00,000/-.

3. By agreement between the parties, the Respondent Company shall pay a total sum of Rs.1,45,00,000/- to the Petitioner Company within a period of two weeks from today towards the Principal and interest of such refund due to the petitioner. Both the learned counsels upon instructions made endorsement to that effect on the bundle of the present case.

4. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

The Authorized Officer,
M/s.Asset Reconstruction Company India Limited
The Ruby, 10th Floor
29, Senapati Bapat Marg
Dadar (West)
Mumbai-400 028.

+4 ccs to Mr.Arunkungumaraj Advocate sr91629
+1 cc to Mr.Chethan Sagar Advocate sr91333

W.P.No.28037 of 2019

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