

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.3472 OF 2019

ORDER: *(Per Hon'ble Sri Justice V. Ramasubramanian)*

Claiming to be a tenant in respect of the secured asset and also claiming to be in possession of a decree of permanent injunction restraining the landlord from evicting him without following due process of law, the petitioner has come up with the above writ petition, challenging the action of the bank in attempting to alienate the secured interest.

2. Heard Mr. N. Harish Kumar, learned counsel for the petitioner. Smt. V. Dyumani, learned senior standing counsel, takes notice for the respondent bank.

3. It appears that the petitioner approached the Civil Court in O.S. No.3543 of 2010 against his landlord and obtained a decree of permanent injunction restraining the landlord from evicting him except by due process of law. The judgment and decree is dated 09.08.2011. Even subsequently the petitioner appears to be entering into agreements with the landlord repeatedly, once in every eleven (11) months.

4. Therefore, seeking protection under the decree of permanent injunction and also seeking umbrage under the rental agreements, the petitioner has come up with the above writ petition.

5. There is nothing on record to show the actual measures taken by the 1st respondent bank. According to the learned counsel for the petitioner, the possession notice was pasted in the premises and the bank has taken an order from the Chief Metropolitan Magistrate under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'Act, 2002'). But, neither the possession notice issued under Section 13 (4) of the Act, 2002 nor the order passed under Section 14 of the Act, 2002, are enclosed to the writ petition.

6. In addition, the petitioner pleads that the bank is proposing to proceed with the '*e-auction*'. Therefore, instead of asking for protection against dispossession, the petitioner has actually asked for protection as against alienation. As a tenant, the petitioner cannot prevent alienation, though he may be entitled to ask for a limited protection with regard to the possession.

7. Be that as it may, the litigation does not appear to have been created for the purpose of warding off the bank. There has been a civil decree passed way back in the year 2011. Therefore, the petitioner deserves some time for vacating and handing over vacant possession.

8. Hence, this writ petition is disposed of granting to the petitioner time up to 31.05.2019 to vacate and hand over vacant possession. However, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

V. RAMASUBRAMANIAN, J

Dr. SHAMEEM AKTHER, J

February 20, 2019
Mgr

