

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.1160 of 2020

C.Muthukumar

.. Petitioner

Vs.

1.The Chairman & Managing Director,
Punjab National Bank,
No.7, Bhikaji Cama Place,
New Delhi - 110 066.

2.The Chief Manager & Authorised Officer,
Asset Recovery Management Branch,
Mezzanine Floor, PNB Towers,
RH Road, Chennai - 14.

3.The Branch Officer,
Punjab National Bank,
Nanganallur Branch,
Chennai - 116.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the third respondent to refund a sum of Rs.20,45,000/- paid by the petitioner towards the part of sale consideration of the property bearing Door No.48, Revathipuram 6th Street, Ayyanencherry Village, Chengalpattu Taluk, Kancheepuram District bearing S.Nos.33/1 and 2B measuring an extent of 7 cents (3052 sq.ft.) within a time frame that may be stipulated by this Court.

For Petitioner

.. Mr.R.Shanmugasundaram

For Respondents

.. Mr.M.L.Ganesh

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

Seeking a direction to the third respondent to refund a sum of Rs.20,45,000/- paid by the petitioner towards the part of sale consideration of the property bearing Door No.48, Revathipuram 6th Street, Ayyanencherry Village, Chengalpattu Taluk, Kancheepuram District bearing S.Nos.33/1 and 2B measuring an extent of 7 cents (3052 sq.ft.), the present writ petition has been filed.

2.The petitioner is a successful bidder. This writ petition has been filed by the petitioner seeking refund of amount from the third respondent on the ground of defective title.

3.Learned counsel appearing for the respondents raised a preliminary objection to the effect that the remedy open to the petitioner is to approach the Debts Recovery Tribunal. Reliance has been made on the judgment of the Apex Court in Agarwal Tracom Pvt. Ltd., Vs. Punjab National Bank and Others (Civil Appeal No.19847 of 2017 dated 27.11.2017), wherein it has been held as under:

"34.In the light of foregoing discussion, we are of the considered opinion that the Writ Court as also the Appellate Court were justified in dismissing the appellant's writ petition on the ground of availability of alternative statutory remedy of filing an application under Section 17(1) of SARFAESI Act before the concerned Tribunal to challenge the action of the PNB in forfeiting the appellant's deposit under Rule 9(5). We find no ground to interfere with the impugned judgment of the High Court."

4.In view of the judgment referred supra, we are of the view that the remedy open to the petitioner is only to approach the Debts Recovery Tribunal. Considering the facts of the case, we are inclined to grant three weeks' time from the date of receipt of a copy of this order to file an appropriate application before the said Forum. On such application being filed, the Debts Recovery Tribunal shall dispose of the same on merits and in accordance with law without rejecting it on the ground of limitation.

5.With the above direction, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

mmi

To

- 1.The Chairman & Managing Director,
Punjab National Bank,
No.7, Bhikaji Cama Place,
New Delhi - 110 066.
- 2.The Chief Manager & Authorised Officer,
Asset Recovery Management Branch,
Mezzanine Floor, PNB Towers,
RH Road, Chennai - 14.
- 3.The Branch Officer,
Punjab National Bank,
Nanganallur Branch,
Chennai - 116.

+1cc to Mr.M.L.Ganesh, Advocate SR.No.23162

+1cc to Mr.P.Gajendrababu, Advocate SR.No.23097

W.P.No.1160 of 2020

CA (CO)
GMY (23/03/2020)

सत्यमेव जयते

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