

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.10.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R. HEMALATHA

WP.No.11550 of 2020
and WMP.No.14129 of 2020

R.Kamalakannan ...Petitioner
Versus

Bank of India
rep.by its Authorized Officer,
Theagarayanagar Branch,
104, Sir Theagaraya Road,
Post Box No.1409,
Chennai 600 017. ...Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus directing the 1st respondent to consider the representation made by the petitioner dated 22.07.2020 and a consequential relief by way of direction directing the respondent not to bring the petition property situated at Thalakan cherry Village, bearing Door No.13/20, Nethaji Street, Gandhi Nagar, Madipakkam, Chennai 600 091, through e-auction dated 25.08.2020.

For Petitioner : Mr.T.Ramachandran

For Respondents: Mr.P.Neelakandan

सत्यमेव जयते
ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

The petitioner admittedly availed financial assistance from respondent Bank by creating a security for the landed property measuring an extent of 1134 sq.ft in Plot No.26-1A, Door No.13/20, Nethaji Street, Gandhi Nagar, Madipakkam, Chennai 600 091 and superstructures therein. It appears that the petitioner had committed default in payment of dues and therefore, action was initiated by the respondent/Bank under the provisions of the Securitisation of Financial Assets and Enforcement of Security Interest Act, 2002, Act [in short "SARFAESI Act"] by issuing a Sale Notice dated 03.06.2020. The petitioner made a challenge to

the said notice by filing a SARFAESI Application in S.A.No.98 of 2020, before the Debt Recovery Tribunal-II Chennai (in short "DRT") and prayed for stay of further proceeding of the said Notice. The DRT has passed a conditional order of stay on 13.07.2020. The petitioner due to present COVID-19 pandemic, was unable to comply with the said orders. The petitioner citing the said reasons also submitted a representation dated 22.07.2020, requested the respondent to accept his application for One Time Settlement scheme and since the said representation has not been disposed of, in the meanwhile, the Bank also proceeded further and issued another Sale Notice dated 20.07.2020 and hence the petitioner came forward to file this Writ Petition.

2. The Writ Petition was entertained and this Court has passed a conditional order of stay on 25.08.2020 and subsequently extended the period of stay on 08.09.2020.

3. The matter is listed today. It is represented by the learned counsel appearing for the petitioner that due to the difficult financial situation on account of the thick spread of COVID-19, we could not able to comply with the conditional order. It is suffice to direct the respondent/Bank to consider and dispose of his representation/application for One Time Settlement Scheme.

4. The learned counsel appearing for the respondent/Bank would submit that fair and reasonable opinion given by the petitioner and due consideration can be shown and therefore, the application submitted by the petitioner for One Time Settlement shall be disposed of within a shortest possible time.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in his representation/application dated 22.07.2020, for One Time Settlement or in this Writ Petition, permits the petitioner to furnish additional details in the form of fresh representation, adding to the earlier representation/application dated 22.07.2020, within a period of two weeks from the date of receipt of a copy of this order to the respondent/Bank and upon receipt of the same, the respondent/Bank is directed to consider the earlier application/representation for One Time Settlement Scheme dated 22.07.2020 as well as the additional representation in an objective manner and give a disposal on merits and in accordance with law within a further period of four weeks thereafter and communicate the decision taken to the petitioner.

7. The Writ Petition stands disposed of accordingly. No costs. Consequently connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar

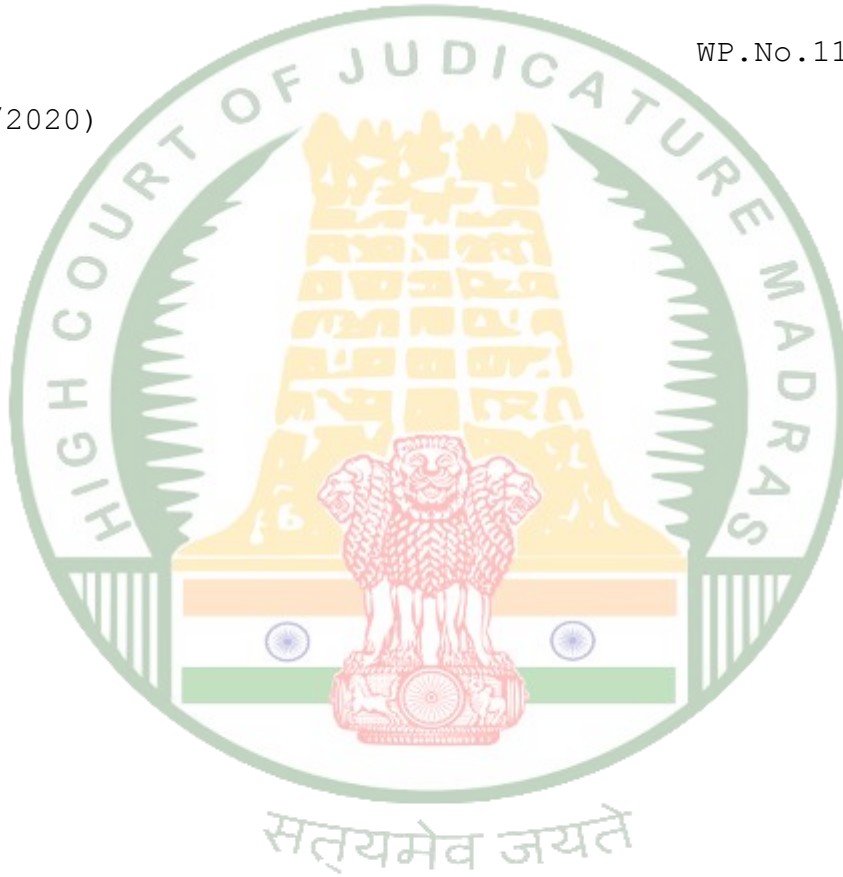
//True Copy//

Sub Assistant Registrar

sk

SAI (CO)
RMP (23/11/2020)

WP.No.11550 of 2020



WEB COPY