

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 23.11.2020

Delivered On : 01.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CRP (PD) No.2037 of 2020 &  
CMP.No.12816 of 2020

1.Shanmugadurai I  
2.Gnanadeepam

...Petitioners

vs.

Authorised Officer,  
ASREC (India) Limited,  
Room No.3, III Floor, Wellington Estate,  
53, Ethiraj Salai, Egmore,  
Chennai 600 008.

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order of the Debts Recovery Tribunal-1, Chennai dated 27.10.2020 in IA.No.527 of 2020 in SA.No.142 of 2020.

For Petitioners : Mr.P.Raghunathan  
for M/s.Antony L.X. Selvam

ORDER

(Order of the Court was made by R.HEMALATHA, J.)

The petitioners have prayed for setting aside the order of the Debts Recovery Tribunal - I, Chennai dated 27.10.2020 in IA.No.527 of 2020 in SA.No.142 of 2020.

2. The case of the petitioners is that they owed Karnataka Bank a sum of Rs.31.60 Crores along with interest from 02.05.2016 (NPA date) and that the debt was assigned to the respondent Asset Reconstruction Company (ARSEC) India Limited on 27.03.2017 itself. The auction sale effected by the respondent Company on 26.10.2018 was set aside by the Debts Recovery Tribunal - I, Chennai on 07.09.2020 in SA.No.136 of 2019. In the meanwhile, the respondent Company had also moved the District Collector, Chennai for assisting in obtaining physical possession as envisaged under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act (SARFAESI Act), 2002. The District Magistrate vide his order dated 13.03.2020 ordered for assistance in getting physical possession which was challenged by the petitioners in SA.No.142 of 2020. The Debts Recovery Tribunal - I, Chennai in its order dated 27.10.2020 refused to stay the

District Magistrate's order dated 13.03.2020, but at the same time gave specific direction to the respondent how to proceed further in the recovery proceedings. Irked by this order, the present Civil Revision Petition has been filed by the petitioners.

3. There are two aspects to be looked into.

(a) Whether taking physical possession of the secured asset is an independent and separate measure not connected to the sale of the asset as observed by the Debts Recovery Tribunal in its order.

(b) Whether the prevailing pandemic scenario came to the aid of the petitioners, since the petitioners had paid up one instalment belatedly as instructed by the Debts Recovery Tribunal and were given time till 20.04.2020 for the second instalment. The pandemic had commenced by then.

4. Firstly, physical possession enhances the value of the secured asset and from the view point of the creditor, a better price is assured. As regards the petitioners, they have not expressed how it affects them except for the sentimental value they claim to have attached to the property. Therefore, the order of the District Magistrate in ordering assistance for taking physical possession does not suffer from any infirmity.

5. Secondly, the prevailing pandemic situation appears to be only an excuse. The account was declared Non-Performing Asset as early as on 2016. The petitioners had sufficient time to repay the dues, had they intended to do so. No secured creditor is interested in depriving the borrower the opportunity to repay. The amount involved is huge roughly to the tune of Rs.59 Crores. In such circumstances, the petitioners have time to liquidate the dues especially with the setting aside of the earlier auction sale. Therefore, the order of the Debts Recovery Tribunal - I, Chennai dated 27.10.2020 does not require any interference.

6. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, the Civil Miscellaneous Petition is dismissed.

[M.S.N., J.]

[R.H., J.]

01.12.2020

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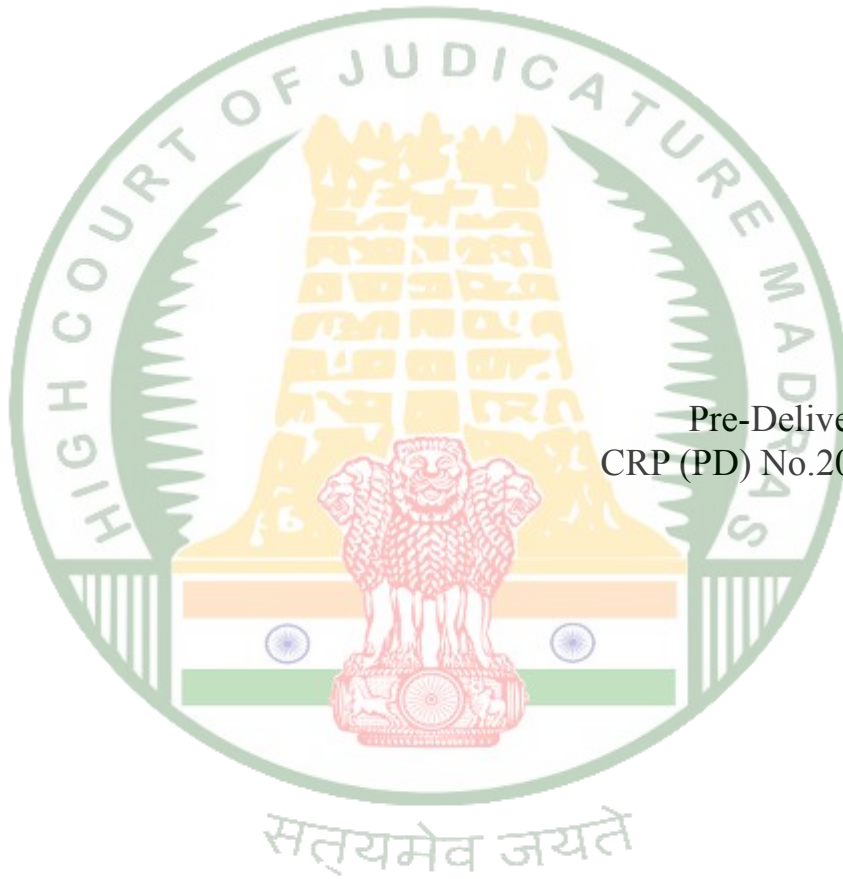
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M.SATHYANARAYANAN, J.  
AND  
R.HEMALATHA, J.

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