

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.17491/2020 & WMP.No.21674/2020

N.Dinakaran ... Petitioner

Versus

1.Repco Home Finance Limited
rep.by its Authorised Officer
Asset Recovery Branch
Plot No.4055,
U Block, No.10, 1st Floor
4th Main Road, Anna Nagar
Chennai 600 040.

2.Repco Home Finance Limited
Head Office, rep.by its Authorised Officer
Alexander Square, No.2 [Old Nos.34&35]
3rd Floor, Sardar Patel Road,
Guindy, Chennai 600 032. ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st and 2nd respondents to consider the application submitted by the petitioner dated 31.10.2020 for extension of time under one time settlement [OTS] pertaining to Loan Account Nos.1331860002273 & 1331860002709.

For Petitioner : Mr.T.Ramachandran

For R1&R2 : Mr.A.Ilangovan

ORDER

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

(1)By consent, the writ petition is taken up for final disposal and is disposed of by this order.

(2)Mr.A.Ilangovan, learned Standing counsel accepts notice on behalf of the respondents.

- (3) The petitioner is the owner of the landed property situate at No.193, Aadhanur Village, Patta No.385, Punja S.No.245, admeasuring to an extent of 2240 sq.ft., inclusive of superstructure in the built in area of 400 sq.ft., out of the larger extent of 0.05.5 Hectares or 0.14 cent situate at Sriperumbudur Taluk, Kanchipuram District, vide registered document bearing No.5510 of 2003 registered on the file of the Sub Registrar, Guduvancherry and he also obtained patta.
- (4) The petitioner availed housing loan from the respondents-Home Finance Limited and also created an equitable mortgage for due repayment of the loan. The petitioner, in all, had availed loan of Rs.10.50 Lakhs. Since the loan accounts of the petitioner became irregular, the accounts were declared as Non Performing Assets on 02.12.2017 and invoking section 13[2] of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [in short 'SARFAESI Act'], a notice dated 20.06.2018 was issued by the respondents-bank and the petitioner did not comply with the terms of the notice and it was followed by a Possession Notice dated 29.01.2019 in and by which, the petitioner was due and payable a sum of Rs.7,61,935/-.
- (5) The learned counsel for the petitioner would submit that the respondents-Bank, on an earlier occasion, sent an E-Mail message dated 29.10.2020 calling upon the petitioner to settle the amount on or before 31.10.2020 and in the light of the difficulties faced due to the present unforeseen circumstances, the petitioner submitted a representation, praying for extension of time and also undertakes to issue post dated cheques in favour of the respondents-bank for the amount sought to be settled and the said representation was received and acknowledged by the respondents-bank on 31.10.2020 and prays for appropriate orders, directing the respondents-Bank to consider the said representation and give a disposal on merits and in accordance with law at an early date.
- (6) Per contra, Mr.A.Ilangovan, learned Standing counsel for respondents-Bank would submit that in the light of the above factual circumstances, the petitioner is deemed to be a defaulter and action has also been taken in accordance with law and challenging the Possession Notice, the petitioner has also filed SA.No.83 of 2019 on the file of the Debts Recovery Tribunal-II, Chennai and the same is pending and if there is any merit in the representation submitted by the petitioner, the same would be considered and disposed of by the respondents-bank on merits at an early date.

(7) This Court has considered the rival submissions and also perused the materials placed before it.

(8) This Court taking into consideration the limited scope of prayer sought for by the petitioner and without going into the merits of the claim projected by the petitioner made in the representation dated 31.10.2020 or in this writ petition, directs the respondents 1 and 2 to consider and dispose of the petitioner's representation dated 31.10.2020 on merits and in accordance with law and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order / uploading of the order in the website and communicate the decision taken, to the petitioner.

(9) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

AP
To

1. Authorised Officer,
Repco Home Finance Limited,
Asset Recovery Branch,
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+1cc to Mr.A.Ilangovan, Advocate Sr.40034

WP.No.17491/2020

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srg 07/01/2021