

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.32019/2019 & WMP.No.33677/2019

Nidhinevatia ... Petitioner

Versus

1.CFM Asset Reconstruction Private Limited
CIN U67100GJ2015PTC083994
represented by its Authorised Officer
Having Branch Office at
Hallmark Towers, 4th Floor
550, TTK Road, Alwarpet, Chennai 600 018.

2.IndusInd Bank
represented by its Authorised Officer
Having Branch Officer at
No.71, Rajaji Salai, Parrys
Chennai 600 001. ... Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of mandamus directing the respondents to permit the petitioner to remove all household belongings, furniture, kitchen utensils and appliances, removable from her residence situated at Flat No.D1, Patio, 23/10, Rutland Gate, 4th Street, Chennai-6000006.

For Petitioner: Mr.P.Jesus Moris Ravi
For R1 : Mr.Elayarajkumar for
M/s.Ramalingam Associates

ORDER

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

- (1)By consent, the writ petition is taken up final disposal.
(2)The petitioner is also one of the promoters/directors and
M/s.Core Indo Ispat Private Limited, Thambu Chetty Street,

Chennai, had availed financial assistance from the IndusInd Bank, viz., the 2nd respondent herein and in the light of the defaults committed by them, recovery proceedings were initiated under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [in short 'the SARFAESI Act'] by issuing notice under Section 13[2] of the SARFAESI Act dated 04.05.2018 demanding a sum of Rs.23,42,42,946/-.

- (3) It appears that it was also followed by the Possession Notice under Section 13[4] of the SARFAESI Act and thereafter, the amount sought to be recovered, has been made over to the 1st respondent and the 1st respondent had approached the Court of the Chief Metropolitan Magistrate by filing an application under Section 14[1] of the SARFAESI Act and got a favourable order on 11.07.2019 in CrI.MP.No.1042/2019. The 1st respondent, armed with the said order and with the aid of the Advocate Commissioner, took physical possession of the secured asset bearing Old Plot No.15-L, presently Plot Nos.D&E, Door No.8&9, Rutland Gate, 4th Street,, Nungambakkam, Chennai-34.
- (4) The learned counsel for the petitioner would submit that while taking possession, the petitioner was not permitted to remove the personal belongings and also draw the attention of this Court to the inventories prepared at the time of taking possession, which is available at Pages No.1 to 4 as well as 4A to 4C of the typed set of documents dated 30.10.2019 and would submit that despite very many representations submitted to the 1st respondent to remove the said inventories, the 1st respondent has refused to accede to the reasonable request and also directed the petitioner to get appropriate orders from this Court and therefore, the petitioner is constrained to approach this Court and prays for appropriate orders.
- (5) Mr.Elayarajkumar, learned counsel appearing for the 1st respondent would submit that this Court may fix the date and time so as to enable the petitioner to remove/take back the items which are the subject matter of the said inventory and the 1st respondent may be permitted to take photographs and videograph of the same and also prays that the petitioner, while removing the items which are the subject matter of inventory, cannot damage the superstructure and prays for appropriate orders.
- (6) This Court has carefully considered the rival submissions and also perused the materials placed before this Court.
- (7) In the light of the limited prayer sought for by the petitioner, this Court permits the petitioner to take back/remove the items which are the subject matter of inventories dated 30.10.2019 available at pages No.1 to 4 as well as 4A to 4C of the typed set of documents [clean copy] filed in support of this writ petition ON 03.02.2020 AND

04.02.2020 BETWEEN 10.00 A.M. AND 5.00 P.M. after giving due and proper acknowledgment to the authorised representative of the 1st respondent and the petitioner, while removing the said items shall not cause any damage to the superstructure in question. The 1st respondent is also at liberty to take videograph and photographs of the same at the above mentioned time and dates.

(8)The writ petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

AP
To

1.Authorised Officer

CFM Asset Reconstruction Private Limited
CIN U67100GJ2015PTC083994
Having Branch Office at
Hallmark Towers, 4th Floor
550, TTK Road, Alwarpet, Chennai 600 018.

2.Authorised Officer

IndusInd Bank
Having Branch Officer at
No.71, Rajaji Salai, Parrys
Chennai 600 001.

+2ccs to Mr.P.Jesus Moris Ravi , Advocate SR.No.6629

+2ccs to Mr.Ramalingam Associates , Advocate SR.No. 6648

WP.No.32019/2019

A.SK(31/01/2020)

सत्यमेव जयते

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