

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.612 of 2021

1. Satish Keradi

2. Meena Kheradi ... Petitioners

Vs.

1. Magma Housing Finance Limited
rep. by its authorised officer
No.8, Sant Nagar
East of Kailash
New Delhi 110 065.

2. The District Magistrate / District Collector
Collectorate
Coimbatore 641 018. ... Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for a writ of Certiorarified Mandamus calling for the
records of the second respondent in Ref.No.12813/2018/E3 dated
24.12.2020 and quash the same.

For Petitioners : Mr.S.Mukunth

For Respondents : Mr.Ilangovan Sivaprakasam
for respondent-1

Ms.R.J.Radhika
Government Advocate
for respondent-2

ORDER

(Made by the Hon'ble Chief Justice)

The writ petition is directed against an order of the second respondent District Magistrate issued under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Paragraphs 11 and 12 of the affidavit in support of the petition make it abundantly clear that the petition is directed solely and wholly against such order of the second respondent herein passed on December 24, 2020.

2. Section 14 of the Act does not involve any adjudication. The scheme of Section 14 of the Act is such that a secured creditor, desirous of obtaining administrative support for the purpose of proceeding against the secured assets, may request the class of officials indicated in Section 14 of the Act for requisite assistance. The provision, now amended, mandates that certain declarations be furnished by the secured creditor, whereupon the authority approached under Section 14 of the Act has to accept the declarations at face value and render the requisite assistance in accordance with law within a time-frame.

3. The provision does not empower the relevant authority to question the secured creditor or challenge the veracity of the declarations furnished. Such authority has merely to render the necessary assistance sought in accordance with law.

4. By the very nature of the function that an authority discharges under Section 14 of the Act, the same cannot be assailed unless it is completely without jurisdiction or grossly disproportionate to the kind of assistance which is sought. In other words, if a private creditor were to invoke such provisions without such creditor being a bank or secured creditor or financial institution as defined in Act of 2002 and if the authority approached were to render assistance, such an act would be without jurisdiction. Also, if the requisite assistance sought is police help to ensure that a particular property may be taken possession of and the relevant authority under Section 14 of the Act passes an order to raze the property by bulldozers, such an absurd order may be challenged on the very nature thereof.

5. The everyday orders passed on a request under Section 14 of the Act of 2002, however, are not amenable to challenge and it is the measure taken by the secured creditor under Section 13 (4) of the Act that is capable of being carried by way of a challenge under Section 17 of the Act to the appropriate Debts

Recovery Tribunal. A long time has passed since the Act of 2002 has been in vogue. The initial gimmicks by borrowers have become hackneyed by now and unless more intelligent ideas are born to try and trick the Court into entertaining petitions against secured creditors, these petitions should stop coming. The only remedy for this petitioner is before the Debts Recovery Tribunal which may entail the deposit of a substantial sum of money.

6. W.P.No.612 of 2021 is dismissed. There will be no order as to costs. WMP Nos.680 and 682 of 2021 are closed.

7. Nothing in this order should prejudice the petitioner if the petitioner carries any proceedings to the appropriate Debts Recovery Tribunal against the measures taken by the respondent secured creditor.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kpl

To

The District Magistrate / District Collector,
Collectorate,
Coimbatore 641 018.

Copy to

The Debts Recovery Tribunal,
Coimbatore.

+1cc to M/s.Sarvabhauman Associates, Advocate Sr.18784
+1cc to the Government Pleader Sr.18766

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W.P.No.612 of 2021

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