

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.914 of 2021

1. R.Mohan Babu
2. R.Madhan
3. N.S.Ravikumar
4. R.Tamilselvi
5. M.Amuthpriya

..... Petitioners

Vs

- 1 REPCO Homes Finance Ltd
Promoted by Repco Bank Govt of India
Represented by its Authorised officer N.
Saravanan No.2 3rd floor Sader patel road
Guindy Ch-2
- 2 The Presiding officer
Debt Recovery Tribunal, Coimbatore.
- 3 The Chief Judicial Magistrate, Namakkal
- 4 M.Raja
- 5 M.Thiyagarajan
- 6 N.V.M.Arulmurugan

..... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus calling for the records of the 3rd respondent in Cr.M.P.No.724/2020 dated 26.8.2020 on the file of the Chief Judicial Magistrate, Namakkal, and quash the same and consequently refrain the 1st respondent from initiating any coercive action for enforcing payment and in taking possession of the secured assets from the petitioners pending disposal of the main TSA No.117/2019 on the file of the DRT Coimbatore.

For Petitioners
For Respondents

:: Mr.V.Vijay Shankar
:: Mr.A.Ilangovan

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The petitioner is a defaulting borrower and complains of the respondent secured creditor approaching the authority under Section 14 of the Securitisation and Reconstruction of Financial

Assets and Enforcement of Security Interest Act, 2002, despite the matter remaining pending before a Debts Recovery Tribunal.

2. According to the petitioner, he has made the initial deposit in terms of the order passed by the Tribunal, but the secured creditor is proceeding to pursue the secured assets despite the pendency of the proceedings before the Debts Recovery Tribunal. At the very least, the petitioner seeks a direction on the relevant Debts Recovery Tribunal to take up and dispose of the relevant matter with utmost expedition.

3. The extraordinary jurisdiction under Article 226 of the Constitution can scarcely be invoked by debtors who have defaulted in payment to the bank to stall the steps that the secured creditor may take under the said Act of 2002. The scheme of the said Act of 2002 permits the secured creditor to proceed against the securities and even deal with the same before the debtor has recourse to any forum to have his grievances redressed. The statutory scheme also provides for the debtor to approach only the Debts Recovery Tribunal under Section 17 of the Act once measures are taken under Section 13(4) of such Act.

4. As to the directions on the Debts Recovery Tribunal to dispose of the matter expeditiously, it must be noticed that the number of Tribunals necessary may not have been created and most of the Tribunals have far too much work to be able to dispose of the matters as expeditiously as the statute contemplates. There is no doubt that the Tribunal in this case will take up the matter in due course and as expeditiously as its business would permit, but a special direction cannot be issued for a particular matter to be taken up ahead of other matters.

5. The order under Section 14 challenged herein does not call for any interference since a debtor has no recourse to such order passed for a request under Section 14 of the Act. Section 14 does not even contemplate any notice being issued to the debtor at the time of processing a request received thereunder.

6. W.P.No.914 of 2021 is disposed of without any effective order and by leaving the writ petitioner free to request the appropriate Tribunal to take up the writ petitioner's matter urgently. Consequently, W.M.P.Nos.1002 and 1003 of 2021 are closed. There will be no order as to costs.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To:

1.The Presiding officer
Debt Recovery Tribunal, Coimbatore

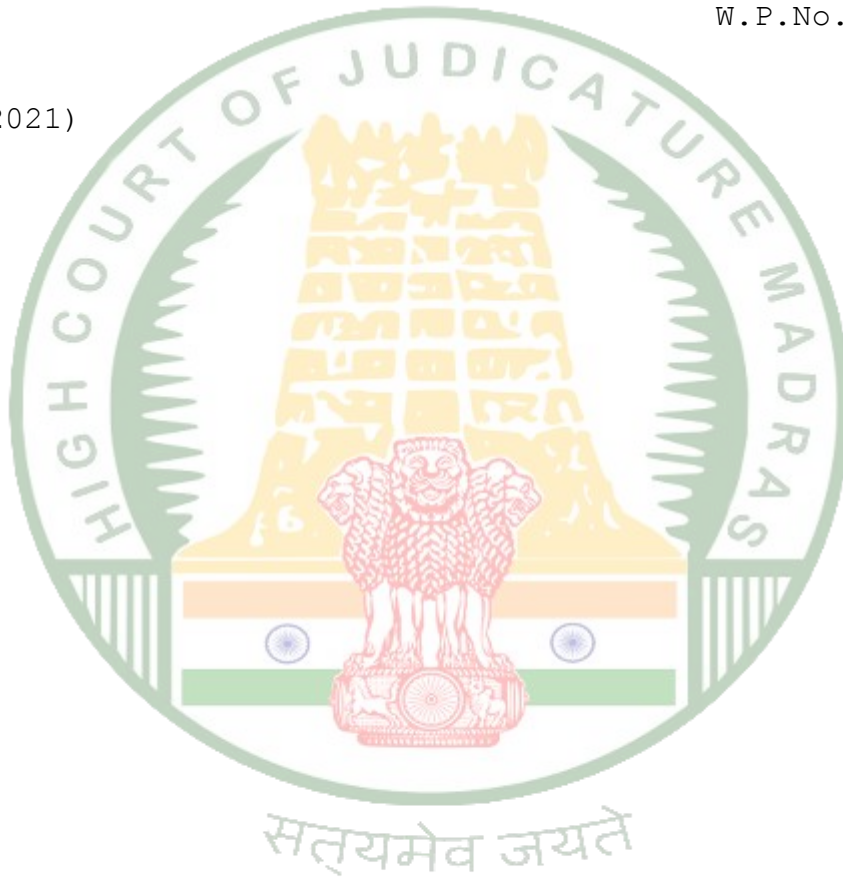
2.The Chief Judicial Magistrate,
Namakkal.

+lcc to Mr.A.Ilangovan, Advocate SR.9638

+lcc to Mr.V.Vijayshankar, Advocate SR.9106

W.P.No.914 of 2021

CA(CO)
CB(02/03/2021)



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