

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.21740 of 2012

and

MP No.1 of 2012

Fly King Suppliers Private Ltd.
Rep. by the Director Dinesh Kumar
63, Ponnappa Chetty street,
Chennai - 600 003.

...Petitioner

Vs

1. The Authorised Officer,
Indian Bank,
ARM Branch - I,
55, Ethiraj Salai,
Chennai - 600 008.

2. K.P.Vasudevan

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the first respondent to hand over the original title deeds and other relevant documents pertaining to the property at Door No.3, Rajavelu Mudali Street off Madhavaram High Road, Perambur, Chennai - 600 011 to the petitioner.

For petitioner
For Respondents

... Mr.V.V.Giridhar
... Mr.M.Balachander for R1
M/s. S.R. Kalyani for R2 -
No appearance

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the first respondent to hand over the original title deeds and other relevant documents pertaining to the property at Door No.3, Rajavelu Mudali Street Off Madhavaram High Road, Perambur, Chennai - 600 011 to the petitioner.

2. Heard Mr.V.V.Giridhar, learned counsel for the petitioner, Mr.M.Balachander, learned counsel for the 1st respondent and Ms.S.R.Kalyani, learned counsel for the 2nd respondent.

3. Even though the prayer sought for in this writ petition is for a Mandamus to handover the original title deeds on the ground that the petitioner is the purchaser of the property pursuant to a sale certificate issued by the first respondent, the learned counsel for the petitioner on instructions would submit that the petitioner is no longer interested in purchasing the property and he is satisfied with the refund of the amount that was paid by the petitioner to the first respondent / bank for the said purchase under the auction conducted under the SARFESI Proceedings.

4. Admittedly, the petitioner has paid Rs.35,60,000/- on 30.09.2010 to the first respondent for the purchase of properties.

5. The learned counsel appearing for the first respondent on instructions would also submit that as regards the amount paid by the petitioner, the first respondent / bank is not disputing the same. He has also not raised serious objection for the refund of the money by the first respondent to the petitioner. The petitioner claims interest at 9% p.a. from 30.09.2010 on the refunded amount. However, the learned counsel for the 1st respondent vehemently opposes the same regarding grant of interest.

6. However considering the fact that it is a SARFESI sale and for no fault of theirs, they have been unable to complete the sale and get possession of the property, this Court is of the considered view that interest will have to be awarded for the amount lying with the first respondent bank. Accordingly, this Court deems it fit that interest at the rate of 6% p.a. from 30.09.2010 is reasonable.

7. Accordingly, this Court directs the first respondent / bank to refund the sum of Rs.35,60,000/-, together with interest at 6% p.a. from 30.09.2010 till the date of payment to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. Since the petitioner has opted for refund of the money, consequently, the sale certificate, dated 09.10.2010 issued by the first respondent in favour of the petitioner is hereby set aside.

8. With the aforesaid direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

vsi2

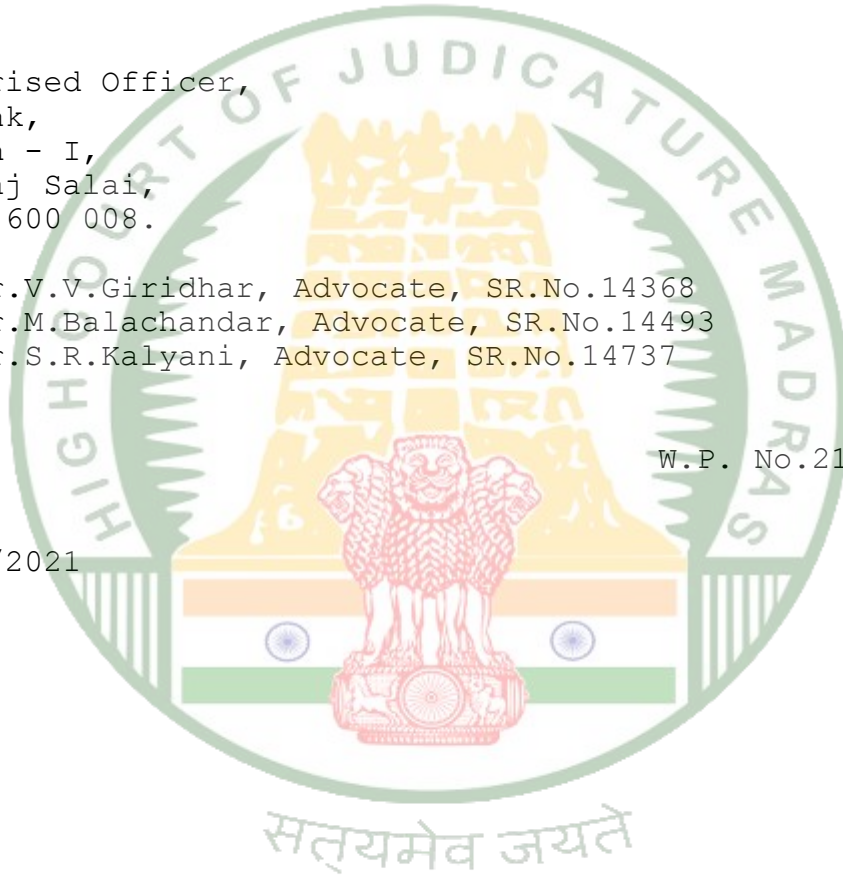
To

The Authorised Officer,
Indian Bank,
ARM Branch - I,
55, Ethiraj Salai,
Chennai - 600 008.

+1cc to Mr.V.V.Giridhar, Advocate, SR.No.14368
+1cc to Mr.M.Balachandar, Advocate, SR.No.14493
+1cc to Dr.S.R.Kalyani, Advocate, SR.No.14737

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NRJK (CO)
KKV/09/03/2021



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