

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.5187 of 2021 & WMP.No.5751/2021

1.N.Vijaya

2.N.Venkatesh

... Petitioners

Vs.

1. The District Magistrate and
District Collector, Tiruvallur District,
Tiruvallur.

2. The Authorised Officer
M/s.Tamil Nadu Mercantile Bank
Nerkundram Branch, Shenoy Nagar,
Chennai 600 030.

3. Tamil Nadu Mercantile Bank Ltd.
Nerkundram Branch,
rep. By its Branch Manager,
No.29, Kamaraj High Road,
Devi Karumariamman Nagar,
Mettukuppam, Nerkundram
Chennai 600 107.

4. N.Sarvana Kumar

5. C.Vijay Singh

... Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for a writ of certiorarified Mandamus calling for the records relating to the order made in RC.No.22708/2017/M2 dated 17.12.2020 passed by the 1st respondent quash the same and consequently forbear the respondents 2 and 3 from interfering with the petitioner's possession and enjoyment of the property more particularly described in the petition schedule.

SCHEDULE

All that piece and parcel of land to the extent of 5682 square feet with commercial cum residential building there at bearing Door No.452, comprised in S.No.231/1 and 1A TS.No.5/32, Block No.4, C.T.H.Road, NO.5, Vizhigiyambakkam Village, Avadi, Thiruvallur District, Chennai 600 054.

For Petitioners : Mr.G.Ethirajulu

For Respondent-1 : Mr.K.S.Suresh
Government Advocate

ORDER

(Made by the Hon'ble Chief Justice)

The petition is utterly misconceived as the petitioners, who are defaulters in repaying the loan obtained from a secured creditor, question the propriety of an order passed by the respondent District Collector, upon a request of the secured creditor made under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The petitioners admit that the petitioners received notice under Section 13(2) of the Act dated June 14, 2017. The petitioners also admit the receipt of a further notice under Section 13(4) of the Act dated December 29, 2017. The petitioners claim to have contacted a private person upon being made aware by the secured creditor that measures have been taken against the petitioners' property.

3. Upon a secured creditor, within the meaning of the said Act of 2002, proceeding against the secured assets under Section 13(4) of the Act, any person aggrieved thereby is entitled to approach the appropriate Debts Recovery Tribunal under Section 17 of the Act. Whether the person is a borrower or a guarantor, any person who may be aggrieved by the measures adopted by the secured creditor may approach the Debts Recovery Tribunal. The petitioners in this case did not opt for such course of action. Indeed, the petitioners waited till substantial steps were taken by the secured creditor and the secured creditor approached the executive authority under Section 14 of the Act. It is the order of assistance passed by the first respondent District Collector which is sought to be challenged herein.

4. The authority approached under Section 14 of the Act does not undertake any adjudicatory exercise. Indeed, the scheme of Section 14 of the Act is such that when a secured creditor approaches an appropriate authority thereunder, the secured creditor is required to furnish certain declarations. The authority approached has only to see whether the declarations have been furnished and accept the same at face value without giving any opportunity to the debtor to deal with the declarations or protest the veracity thereof. The object of the exercise is for the secured creditor to get administrative support to obtain possession of the secured assets or to deal with the secured assets in accordance with law.

5. Since it is evident that the petitioners were aware of the secured creditor having taken steps under the said Act of 2002 and the petitioners may not have approached the appropriate forum at the appropriate stage, the present grievance against a purely administrative act that the statute authorises the respondent District Collector to perform, cannot be made the basis of challenge.

6. W.P.No.5187 of 2021 is dismissed. There will be no order as to costs. As a consequence, W.M.P.No.5751 of 2021 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kpl/ AP

To

1.The District Magistrate and
District Collector, Tiruvallur District,
Tiruvallur.

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Chennai 600 107.

+1 cc to M/s.G.Ethirajulu,Advocate Sr.No. 15803

W.P.No.5187 of 2021

SSN(CO)
RMP(23/03/2021)



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