



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESEVALU

W.P.NO.7637 OF 2021

P.Senthamil Selvi

... Petitioner

.Vs.

1. The Chief Manager,
Indian Bank, (ARM Branch),
Puliyakulam (Customs),
Coimbatore - 641 018.
2. M/s.Srivari Enterprises,
Office 1: No.11/15A SRP Nagar,
2nd Cross, Saibaba Colony,
Coimbatore.
3. Madhangopal
4. Mahalakshmi
5. Prem Chander

... Respondents

(Respondent Nos.2 to 5 impleaded as
per the order dated 24.03.2021)

PRAYER:-

Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the first respondent to implement the terms of the confirmation letter dated 03.02.2020 by executing the sale deed of the auctioned securities immovable properties comprised in G.S.No.41, Old T.S.No.9/5/1 Part, New T.S.No.9/4/3 Part, Coimbatore Town Municipal Ward Old No.9, New No.5, Ram Nagar, East West Cross Road, Ponne Gowder Road at Anuparpalayam Village, Coimbatore in an extent of 4821 sq. ft. or 11 cents 25 sq. ft. of land and RCC building in that western half portion of property with an extent of 2410 sq.ft. or 5 ½ cents land with door numbers 581, 582, 584 and 585 in the petitioner's favour and to put the petitioner in vacant and immediate possession of the said property by the first respondent after execution of the sale deed and comply



with the request of the petitioner in accordance with the petitioner's representation dated 19.2.2021.

WEB COPY

For Petitioner : Mr.V.Lakshminarayanan
for M/s.R.Vasudevan

For Respondents : Ms.S.R.Sumathy
for respondent No.1

: Mr.K.J.Parthasarathy
for respondent No.3

: R2, R4 and R5
No Appearance

ORDER

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

The grievance of the petitioner, a successful auction-purchaser at a sale conducted by the respondent secured creditor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, is that despite a marginal delay in depositing the balance consideration on account of the difficulties faced during the lockdown, the secured creditor says that the sale can no longer be concluded in the petitioner's favour.

2. In certain other matters wherein the same issue had arisen, in view of the difficulties faced during the lockdown, this court had permitted the balance payment to be accepted by the secured creditors upon interest at the rate of 10 per cent per annum being directed to be paid. The provision for interest was made as the secured creditors indicated that, in terms of Rule 9 of the Security Interest (Enforcement) Rules, 2002, the secured creditor had no authority to extend the time for the balance consideration to be put in by the auction-purchaser beyond 90 days from the date of the auction.

3. In this case, the borrower is represented and the borrower relies on a judgment reported at (2018) 1 SCC 626 (Agarwal Tracom Private Limited v. Punjab National Bank). Such judgment instructs that even the issue as to whether the money deposited by the auction-purchaser may be forfeited can be taken up by the appropriate tribunal under Section 17 of the Act of 2002.



4. Section 17 of the Act contains wide words and permits any person aggrieved by any measure adopted by a secured creditor to carry a grievance to the jurisdictional Debts Recovery Tribunal. There is no doubt that the sale of a property or anything done in connection therewith pertains to a measure under Section 13 (4) of the Act. In view of the said judgment, the petitioner is permitted to approach the appropriate Debts Recovery Tribunal for the grievance contained in the petition.

5. W.P.No.7637 of 2021 is disposed of without going into the further merits of the matter.

There will be no order as to costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

bbr

To

The Chief Manager,
Indian Bank, (ARM Branch),
Puliyakulam (Customs),
Coimbatore - 641 018.

+lcc to M/s.R.Vasudevan, Advocate, S.R.No.41527
+lcc to Mr.K.J.Parthasarathy, Advocate, S.R.No.41280

W.P.NO.7637 OF 2021

LN(CO)
PBS/23/08/2021