



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.7190 of 2021

M/s.PGC Corporation Limited,
Rep. by its Managing Director
D.Prem
Registered Office,
No.5, Prem Garden,
Rajaji Nagar, P.N.Road,
Tirupur - 641 602.

... Petitioner

-vs-

1. Government of India,
Rep. By its Secretary to Government,
Ministry of Finance,
New Delhi - 110 001.
2. The Regional Director
Reserve Bank of India,
Regional Office,
No.16, Rajaji Salai,
Fort Glacis, Chennai- 600 001.
3. The Chairman and Managing Director,
Indian Overseas Bank,
Head Office, No.763, Anna Salai,
Chennai - 600 002.
4. The Authorised Officer
Indian Overseas Bank,
Asset Recovery Management Branch,
No.11/952, Cross Cut Road,
Ganthipuram, Coimbatore - 641 012.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue a Writ of Certiorarified Mandamus calling for the records culminated in the impugned Sale Notice in ref.ARM/265/2020-21 dated 26.02.2021 issued by the 4th



respondent bank, and quash the same as illegal and consequently directing the 4th respondent to consider and grant one time settlement proposal to the petitioner.

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For Petitioner : Mr.R.Prabhakaran

For Respondents : Mr.T.V.Krishnamachari
for respondent No.1

Mr.M.L.Ganesh
for respondent Nos.3 and 4

ORDER

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

The grievance of the petitioner is that despite the petitioner's previous petition before the Debts Recovery Tribunal in respect of the secured assets remaining pending, a sale notice has been issued by the respondent secured creditor on February 26, 2021 covering the same properties.

2. Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 permits any person aggrieved by any measure taken under Section 13(4) of such Act by a secured creditor answering to the description in the said Act to approach the appropriate Debts Recovery Tribunal. The petitioner, who appears to be a borrower who has defaulted in repayment, has the right to assail the sale notice by way of proceedings under Section 17 of the Act before the said Debts Recovery Tribunal.

3. It is utterly irrelevant as to whether previous proceedings are pending before the tribunal. As long as there is no embargo by an authorised forum, the secured creditor has every right to proceed against the secured asset. Indeed, it is the avowed purpose of the Act of 2002 to allow a secured creditor to proceed against the secured assets even before any adjudication as to the indebtedness or the quantum thereof is undertaken.

4. Since the petitioner's previous proceedings remain pending with the Debts Recovery Tribunal, it is open to the petitioner to approach such tribunal in the previous proceedings or institute proceedings afresh in respect of the sale notice impugned herein and obtain appropriate orders. In the light of



there being a statutory remedy available to the petitioner, this extraordinary jurisdiction cannot be permitted to be invoked for the mere asking.

W.P.No.7190 of 2021 is disposed of without going into the merits thereof and by leaving the petitioner free to approach the appropriate forum in accordance with law. There will be no order as to costs. Consequently, W.M.P.No.7703 of 2021 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bbr
To:

- 1.The Secretary to Government,
Government of India,
Ministry of Finance,
New Delhi - 110 001.
- 2.The Regional Director
Reserve Bank of India,
Regional Office, No.16, Rajaji Salai,
Fort Glacis, Chennai- 600 001.
- 3.The Chairman and Managing Director,
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Head Office, No.763, Anna Salai,
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Indian Overseas Bank,
Asset Recovery Management Branch,
No.11/952, Cross Cut Road,Ganthipuram,
Coimbatore - 641 012.

+1 cc to M/s.R.Prabhakaran,Advocate Sr.No. 18302
+1 cc to M/s.T.V.Krishnamachari, Advocate Sr.No. 17222

W.P.No.7190 of 2021

PL(CO)
RMP(31/03/2021)