

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.7395 of 2021

Amsavalli.M

.. Petitioner

Vs.

Repco Home Finance Limited,
No.21, Second Floor, LRG Complex,
Naduvar East Street, Nagapattinam-611 001
rep. by its Branch Manager/Authorised Officer,
Nagapattinam Branch.

.. Respondent

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records relating to E-Auction sale notice dated 30.1.2021 in S.No.1/84 in respect of Loan Account No.2041871000085 of the petitioner on the file of the respondent pursuant to the respondent's possession notice dated 03.11.2020 in proceedings NIL as illegal, incompetent and unconstitutional and without jurisdiction.

For Petitioner : Mr.D.Nellaiappan

For Respondent : Mr.I.Ilangovan

ORDER

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

The only ground urged by the petitioning borrower is that the respondent, which is promoted by Repco Bank, cannot resort to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner refers to a recent judgment of this Court delivered on March 3, 2021 in W.P.No.33133 of 2019 holding Repco Bank not to be a bank or a secured creditor within the meaning of the relevant definitions in the Act of 2002.

2. The respondent, Repco Home Finance Limited, is represented. The respondent relies on a notification of November 10, 2003, by which the Banking Division of the Department of Economic Affairs has registered the respondent as

a housing company and has required it to be treated as a financial institution entitled to invoke the provisions of the said Act of 2002.

3. In view of such notification which, according to the respondent, still governs the field without any contrary notification having been published, the respondent here has to be regarded as a financial institution within the meaning of the definition in Section 2(1)(m)(iv) of the said Act of 2002 and, thus, entitled to invoke the provisions of the said Act of 2002 as a secured creditor.

4. The typed set of documents filed by the respondent will be retained with the papers.

5. Since it is evident that Repco Home Finance Limited is entitled to invoke the provisions of the said Act of 2002 by virtue of its status as a financial institution within the definition of the said Act of 2002, W.P.No.7395 of 2021 is dismissed and the petitioner is left free to pursue the petitioner's remedies against the measures that may have been taken by the respondent in accordance with law. The fact that an entity which may not be a bank or secured creditor or financial institution which has promoted the respondent herein is of no relevance, since the respondent herein is a financial institution on its own steam and as declared by the Central Government. Consequently, W.M.P.No.7904 of 2021 is closed. There will be no order as to costs.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

bbr

To:

The Branch Manager/Authorised Officer,
Repco Home Finance Limited,
Nagapattinam Branch,
No.21, Second Floor, LRG Complex,
Naduvar East Street, Nagapattinam-611 001.

+1 CC to Mr.A. Ilangovan, Advocate sr 18353.

+1 CC to Mr.D.Nellaiappan, Advocate sr 18513

W.P.No.7395 of 2021

SKY(CO)

SP(31/03/2021)