IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10378 of 2021

M.Ranjithkumar .. Petitioner

Vs.

M/s.REPCO Home Finance Ltd.,
rep. By its Authorized Officer,
REPCO Tower,
No.33, North Usman Road,
T.Nagar, Chennai 17 .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the respondent and quash the proceedings in Ref.No.RHFL/SARF-2753-SVPTY/2019 dated 11.04.2019 and possession notice issued under Section 13(12) on 12.07.2019 and all its subsequent proceedings and quash the same as illegal, incompetent unconstitutional and without jurisdiction.

For Petitioner : Mr.I.Abrar Md Abdullah

For Respondent : Mr.A.Ilangovan

ORDER
(made by the Hon'ble Chief Justice)

This is another of the misconceived petitions seeking relief against REPCO Bank Ltd. though the credit facilities obtained by the petitioner are from REPCO Home Finance Ltd.

2. In at least two previous judgments of this Court, the distinction between REPCO Bank Ltd. and REPCO Home Finance Ltd. has been brought out. It is also a matter of record that REPCO Home Finance Ltd. has been recognized as a financial institution by the Central Government and a notification in such regard was published on November 10, 2003.

3. A “secured creditor” as defined in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security

Interest Act, 2002 is either a bank or a financial institution. Among the financial institutions recognized to be a secured creditor is a body which may be declared by the Central Government by notification to be a financial institution. In this case, REPCO Home Finance Ltd. enjoys such status. It is utterly irrelevant that REPCO Home Finance Ltd. may be controlled by REPCO Bank which may not be a bank or recognized financial institution.

4. Since it is open to the respondent REPCO Home Finance Ltd. to invoke the provisions of the Act of 2002 against a borrower, which definition covers both the principal debtor and the guarantor, the petitioner can have no grievance in REPCO Home Finance Ltd. having resorted to the measures under the said Act of 2002.

5. In the event the petitioner has any grievance against the measures taken by REPCO Home Finance Ltd., the petitioner has to approach the appropriate Debts Recovery Tribunal under Section 17 of the Act.

6. Since the petition is founded on the flawed ground that REPCO Home Finance Ltd. cannot invoke the provisions of the said Act of 2002, W.P.No.10378 of 2021 is dismissed. W.M.P.Nos.10950 and 10951 of 2021 are closed. There will be no order as to costs.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

The Manager
M/s.REPCO Home Finance Ltd.,
REPCO Tower,
No.33, North Usman Road,
T.Nagar, Chennai 17

W.P.No.10378 of 2021

RLD(CO)
SP(15/06/2021)