

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2021

CORAM :

The Hon'ble Mr.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9010 of 2021
and W.M.P.Nos.9544, 9547 and 9548 of 2021

Shayamala ... Petitioner

-vs-

1.The Authorised Officer,
REPCO Home Finance Ltd.,
REPCO Tower, D.No.33, North Usman Road,
T.Nagar, Chennai 600 017.

2.The Branch Manager,
REPCO Home Finance Ltd.,
Mettupalayam Branch, Mettupalayam,
Coimbatore District 641 301. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the entire records relating to the demand notice dated 23.03.2018 in Ref.No.RHFL/SARF-2009-MTP/2018 and consequent e-auction sale notice dated 05.02.2021 in Ref.No.RHFL/SARF-2009-MTP/2021 issued by the 1st respondent under the SARFAESI Act, 2002 and if any other further proceedings are taken based on which, in connection with Loan Account No.1421871000830 & 1421880001003 and quash the same and consequently forbear the Respondents from taking any further action under the SARFAESI Act, 2002 in this matter.

For Petitioner : Mr.M.Vijayaragavan

For Respondents : Mr.A.Ilangovan
Stdg. Counsel

ORDER
(Made by The Hon'ble Chief Justice)

The petitioner relies on a judgment of this Bench of March 3, 2021 in W.P.No.33133 of 2019 (S.P.Ganesan vs. The Authorised Officer, REPCO Bank) to suggest that REPCO Home Finance Ltd being substantially controlled by REPCO Bank, it cannot resort to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. In view of the judgment of this Bench dated March 22, 2021 in W.P.No.7395 of 2021 (Amsavalli.M vs. REPCO Home Finance Limited), the present petition is liable to be dismissed as REPCO Home Finance Limited has been found to be a financial institution within the meaning of that expression in the Act of 2002.

3. The respondent secured creditor is represented and says that by a notification dated November 10, 2003, REPCO Home Finance Limited has been recognised as a financial institution.

4. Accordingly, since the primary ground in the petition is that the respondent secured creditor cannot invoke the provisions of the Act of 2002, W.P.No.9010 of 2021 is dismissed. There will be no order as to costs. Consequently, W.M.P.Nos.9544, 9547 and 9548 of 2021 are closed.

5. It will be open to the petitioner to challenge any measures taken by the secured creditor under Section 13 (4) of the Act before the appropriate Tribunal in accordance with law.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

+1cc to Mr.M.Vijaya Ragavan, Advocate, S.R.No.22653

+1cc to Mr.A.Ilangovan, Advocate, S.R.No.22677

W.P.No.9010 of 2021

PCH(CO)
KM(26/04/2021)