

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2021

CORAM :

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

W.P.No.9475 of 2021

K.Poonkodi

... Petitioner

-vs-

1 The District Collector /
The District Magistrate O/o. Collectorate
Coimbatore 641 018

2 Edelweiss Housing Finance
41-A 2nd Floor West Lokamanya Street
R.S.Puram, Coimbatore 641 002

3 R.Boomiraj ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondent herein to consider and dispose the petitioner's representation dated 17.3.2021 made to the respondent in accordance with law on merits within a time frame.

For Petitioner : Mr.R.Krishnamurthy

For Respondents : Ms.R.J.Radhika,
Government Advocate,
for 1st respondent

ORDER

(Made by The Hon'ble Chief Justice)

The petition is as misconceived as they come. The petitioner claims to have availed of a housing loan against the mortgage of the property. The petitioner makes out an imaginary matrimonial dispute with the third respondent husband to claim that though the petitioner had made over to her husband the amount that ought to have been repaid to the creditor, the default on the part of the husband has resulted in the second respondent resorting to measures under Section 13 (4) of the

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The innocuous - and rather mischievous - prayer that is made is for the petitioner to be heard by the District Collector in connection with the secured creditor's request apparently made or proposed to be made under Section 14 of the Act of 2002.

3. For a start, the writ petitioner's remedy lies before the appropriate Debts Recovery Tribunal. Any person aggrieved by any measure adopted by a secured creditor under Section 13 (4) of the Act may approach the appropriate Tribunal. There is no reason why the writ petitioner should not follow the same route. Secondly, Section 14 of the Act of 2002 does not conceive of a process of adjudication. The District Collector or the authority approached under Section 14 of the Act is only for the purpose of rendering executive assistance to a secured creditor to get access to the secured asset. The scheme of the provision requires certain declarations to be furnished by the secured creditor and for the authority approached under Section 14 of the Act to accept the declarations at face value as long as the declarations are made. Neither the borrower nor any person in occupation of the secured asset is entitled to any notice or any right of being heard before the District Collector.

4. Accordingly, W.P.No.9475 of 2021 is dismissed. The petitioner is left free to pursue the petitioner's remedies before the appropriate Tribunal in accordance with law. There will be no order as to costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sra

To

The District Collector /
The District Magistrate O/o. Collectorate
Coimbatore 641 018.

+1cc to Mr.R.Krishnamurthy, Advocate, S.R.No.23626.

+1cc to the Government Pleader, S.R.No.23406.

W.P.No.9475 of 2021

VG-II(CO)
CSR 30.04.2021