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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.10471 of 2021

Sundar Meenakshi Chockalingam
No.227, 39th C Cross
9th Main Jayanagar
5th Block
Bangalore- 560 041.

.. Petitioner

Vs.

1 The Assistant General Manager
and Authorized Officer
ARM Branch, Canara Bank
2nd Floor, Circle Office Building
No.563/1, Anna Salai, Teynampet
Chennai- 600 018.

2 M/s. Vaasan Medical Centre (India) Pvt. Ltd.
No.15-A, Main Road
Thillai Nagar
Trichy -620018.

3 Meera Arjun

4 V.Dwarakanathan

5 D.Nirmala

.. Respondents

[R2 to R5 impleaded vide order dated
27/04/2021 made in W.P.No.10471/2021]

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondent to handover the physical possession of the property situated at Flat bearing 3A, Third Floor, Situated at Door No. 36 (Old No.25), Block No.85, Doshi Apartments, Archbishop Mathias Avenue, Boat Club Road, Raja Annamalaipuram, Chennai-600 028 and to provide interest and compensation for loss suffered due to delay caused by the respondent bank by considering the petitioners representation dated 10.02.2020.



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For Petitioner : Mr.G.Vijayakumar

For Respondents : Mr.M.L.Ganesh
for respondent-1

Mr.P.Sathish Kumar
for respondents 2 to 5

ORDER

(Made by the Hon'ble Chief Justice)

The petitioner is the auction-purchaser of an immovable property at a sale conducted by Canara Bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The matter has been previously adjourned on the ground that some matter is pending before the Supreme Court. At the bank's suggestion that the matter be adjourned again, this court was not inclined, particularly since the bank cannot show any order setting aside the sale or injuncting the handing over of possession of the property in question to the auction-purchaser. The bank says that the borrowers have tried to scuttle the process by filing frivolous proceedings and in one of such proceedings where an order passed under Section 14 of the Act by an executive functionary was challenged, this court held that the District Collector or the relevant Judicial Magistrate had due authority to appoint an advocate commissioner under Section 14 of the Act. It is such order which has been taken up to the Supreme Court and the appeal is pending.

3. Since the petitioner herein is aware of such Supreme Court proceedings, it is evident that no order can be made immediately. Accordingly, W.P.No.10471 of 2021 is disposed of with liberty to the petitioner to take whatever remedy that may be available to the petitioner, including by filing a fresh writ petition upon the disposal of the relevant matter before the Supreme Court, with a prayer for interest or damages or both for the delayed delivery of the property by the bank.

4. There will be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



kpl

To

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The Assistant General Manager
and Authorized Officer
ARM Branch, Canara Bank
2nd Floor, Circle Office Building
No.563/1, Anna Salai, Teynampet
Chennai- 600 018.

W.P.No.10471 of 2021

AK-II (CO)
SB(09/08/2021)