

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10801 of 2021

1 Mr.T.Maheswaran
2 Mrs. Sivapriya
3 Mrs. T.Lokeswar
4 Mrs. S.Dhanalakshmi ...Petitioners

Vs

1 Pridhvi Asset Reconstruction
and Securitisation Company Ltd. D.No.1-55
4th Floor Raja Praasadamu 4th Floor Masjid
Banda Road Kondapur Hyderabad -500 084.
2 State Bank of India
Stressed Asset Management Branch Red Cross
Building No.32 Montieth Road Egmore
Chennai 600 008.
3 M/s.Naihaa Retail Pvt. Ltd.
Reg. Office at Old No.20 New No.31
Rajabhather Street T.Nagar chennai 600 017.
4 Mr.R.Aravind ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus directing the call for the records of the impugned order dated 07/05/2018 and Fresh warrant dated 08/02/2021 passed by the Honourable Chief Metropolitan Magistrate court Egmore Chennai in CrI.M.P.No.954/2018 and quash the same and to restrain the respondents 1 and 2 from evicting the petitioners and occupants of the premises at old No.15 New No.16 Bazar lane Saidapet Chennai 15.

For Petitioners : Mr.V.V.Giridhar
For Respondents : Mr.Srinath Sridevan,
for 1st respondent
Mr.S.Sethuraman,
for 2nd respondent

ORDER

(made by the Hon'ble Chief Justice)

This is a rather fanciful petition invoking the extraordinary jurisdiction under Article 226 of the Constitution to reopen matters that may have already been closed or attained finality. The petitioners claim to be the heirs of the original borrower and say that at the time that the notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was issued or even at the time that measures were taken by the respondent secured creditor under Section 13(4) thereof, the original borrower was indisposed and unable to manage his affairs. The petitioners claim that the security furnished or the documents of mortgage were not even registered and the security could not be proceeded against by the secured creditor.

2. The immediate relief that is sought pertains to the request made by the secured creditor for executive assistance under Section 14 of the said Act.

3. It is elementary that Section 14 provides for executive assistance to be rendered by the State through the instrumentalities of the authorities indicated therein to enable a secured creditor to reach the secured assets or the documents pertaining thereto. Section 14 of the Act does not contemplate any adjudication of rights. Certain declarations are to be furnished by a secured creditor and the authority presented with the request should take the declarations at face value and proceed to render the assistance sought in accordance with law upon noticing the declarations to be in place. The veracity of the declarations cannot be gone into by such authority.

4. It is for a person aggrieved by any of the measures adopted by a secured creditor to approach the jurisdictional Debts Recovery Tribunal with a grievance. There is a time-limit which is set for such purpose. There is no doubt that in this case, time limit has expired. At any rate, the secured creditor says that Section 17 had been invoked earlier by the original borrower or the petitioners themselves.

5. In such circumstances, the remedy of the petitioners, when declined by the Debts Recovery Tribunal, was by way of an appeal to the Appellate Tribunal. The issues that could or ought to have been raised before the Debts Recovery Tribunal in proceedings under Section 17 of the Act, whether or not actually raised, cannot be made the subject-matter of a subsequent petition under Article 226 of the Constitution particularly when the secured creditor proceeds to seek assistance from an executive authority under Section 14 of the Act.

6. The petition is completely misconceived and is dismissed with costs assessed at Rs.10,000/- (Rupees Ten Thousand only) to be paid to the respondent secured creditor. W.M.P.Nos.11431 to 11433 of 2021 are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(tar)

To:

1. State Bank of India
Stressed Asset Management Branch Red Cross
Building No.32 Montieth Road Egmore
Chennai 600 008.
2. The Chief Metropolitan Magistrate
Egmore, Chennai.

W.P.No.10801 of 2021

SS(CO)
RG(12/07/2021)

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