



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15175 of 2021

V.A.Bakthavatchalam

... Petitioner

Vs.

1. The District Collector,
District Collector Office,
Coimbatore.
2. The Tashildar,
Pollachi.
3. The Authorised Officer,
M/s.Tamilnad Mercantile Bank Ltd.,
76, 77, New Scheme Road,
Pollachi Branch,
Coimbatore District.
4. Ananda Balaji
5. B.Sasikumar
6. Mohamed Ismail

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records relating to the order dated 16.8.2019 in D.Dis.No.25242/2018/E3 of the first respondent (District Collector and District Magistrate, Coimbatore) and quash the same and direct the third respondent to give redelivery of the possession of the property to the petitioner.

For Petitioner

: Mr.D.Lakshmipathy

For Respondents

: Mr.C.Harsha Raj
Counsel for the State
for respondent Nos.1 and 2



ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petition is as misconceived as they come.

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2. The petition seeks to challenge an order passed by the District Collector, Coimbatore following a request by the Tamilnad Mercantile Bank Limited under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. It is elementary and as would be evident from the relevant provision, Section 14 of the Act does not require any adjudication to be undertaken. As a consequence, no person is entitled to be served a notice before executive assistance in accordance with the provision is extended to a secured creditor as defined in the said Act.

4. What appears to be the real grievance of the petitioner is the measure adopted by the secured creditor in respect of the property in question. Section 17 of the Act permits any person aggrieved, including a borrower, to approach the jurisdictional Debts Recovery Tribunal against any measure adopted by a secured creditor under Section 13(4) of the Act. In the present case, the petitioner claims to be a lessee under the mortgagor. A previous lessee under the mortgagor in possession of the leasehold property at the time of the creation of the mortgage may, ordinarily, not be disturbed by the mortgagee. However, upon a mortgage being made and the mortgagor purporting to create a subsequent lease in respect of the immovable property without the previous permission of the mortgagee, may leave the subsequent lessee almost defenseless when the mortgagee seeks to proceed against the mortgaged asset.

5. At any rate, since the order impugned providing executive assistance to the secured creditor cannot be questioned by the petitioner claiming as a lessee under the mortgagor in respect of the secured asset, the only remedy available to the petitioner is to apply under Section 17 of the said Act within the time prescribed therefor.

6. W.P.No.15175 of 2021 is dismissed. W.M.P.No.16070 of 2021 is closed. There will be no order as to costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar



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To:

1. The District Collector,
The District Collector Office,
Coimbatore.
2. The Tashildar,
Pollachi.
3. The Authorised Officer,
M/s.Tamilnad Mercantile Bank Ltd.,
76, 77, New Scheme Road,
Pollachi Branch,
Coimbatore District.

+1cc to the Government Pleader, S.R.No.35308

W.P.NO.15175 OF 2021

VSNII (CO)
PBS (27/07/2021)