

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

W.P.No.16854 of 2021

H.Devika Prem Anand

.. Petitioner

Vs.

1 The Superintendent of Police
Chengalpattu. Collectorate Campus
Chengalpattu- 603001.

2 The Chief General Manager
Punjab National Bank
Plot No.4 2015 Delhi Road
Sector 10, Dwarka
New Delhi Delhi- 110 075.

3 The Chief Vigilance Officer
Punjab National Bank
5-B, 10th Floor A Wing
CGO Complex, Lodhi Road
New Delhi- 110003.

4 The Manager (North Circle)
Punjab National Bank
Sastra Center, Royala Towers
Spencer Plaza
Chennai- 600 002.

5 The Branch Manager
Punjab National Bank

(KK Nagar Branch)
101/341 Lakshminaswamy Salai
A.L.Mudaliar Road, KK Nagar
Chennai- 600 078.

6 M.Karthikeyan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus directing the Respondents 2-5 to drop and or withdraw the E-Auction process that is scheduled to be conducted on 12/08/2021 for the property in S.Nos. 195/ 5 195/5C 195/6 195/6 C-Plot No.315 in Nallambakkam Village Kanchipuram District and or on any date thereby revoking the Auction Notice Issued by the Bank in the Indian Express Newspaper on 10.07.2021 in pursuance of the Notice issued by the office of the 1st Respondent on 28.07.2021 pending investigation of the complaint registered by the petitioner and thereby protecting her interest as well as the title over the property.

For Petitioner : Mr.S.S.Rajesh

For Respondents : Mr.P.Muthukumar,
Counsel for State,
for 1st respondent

Mr.M.L.Ganesh,
for respondents 2 to 5

ORDER

(made by the Hon'ble Chief Justice)

The petitioner says that though the petitioner's title to a particular immovable property has been declared by this Court in a first appeal, the private respondent herein has purported to forge and fabricate documents to create a mortgage in respect thereof with the fifth respondent bank.

2. It is the petitioner's further grievance that despite forwarding copies of the relevant order of the High Court and complaining even to the Superintendent of Police, Chengalpattu, no action has been taken by either the respondent bank or the police. The petitioner says that the purported secured creditor seeks to go ahead with the e-auction of the relevant property.

3. Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 permits any person aggrieved by any measure taken by a secured creditor under Section 13(4) of the Act to approach the appropriate Debts Recovery Tribunal with the grievance. Thus, the remedy of the petitioner in this case lies before the appropriate Debts Recovery Tribunal exercising jurisdiction. The petitioner is reminded that the right to approach the Debts Recovery Tribunal under such provision is not restricted to a borrower, but it is open to any person aggrieved by a measure adopted under Section 13(4) of the Act by a secured creditor or purported secured creditor to approach the Debts Recovery Tribunal in such regard.

4. Since there is an efficacious alternate remedy available to the petitioner, the writ petition is not entertained.

5. As far as the criminal complaint is concerned, there are appropriate steps that the petitioner may take upon the petitioner's complaint not being proceeded with in accordance with law.

6. W.P.No.16854 of 2021 is disposed of without going into the merits of the matter and by leaving the petitioner free to approach the appropriate fora in accordance with law. There will be no order as to costs. Consequently, W.M.P.Nos.17838 and 17839 of 2021 are closed.

(S.B., C.J.)

(P.D.A., J.)

12.08.2021

Index : yes/no
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सत्यमेव जयते
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