

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P.No.15118 of 2020

WMP.Nos.18862, 18863 and 18864 of 2020

D.C.A.Ashok Kumar .. Petitioner

Vs.

1.The Manager,
Vijaya Bank,
No.22, 10th Avenue,
Ashok Nagar, Chennai - 600 083.

2.The Authorised Officer,
Vijaya Bank - Aukun Menor,
182, Poonamallee High Road,
Kilpauk, Chennai - 10.

3.The Centurian Bank of Punjab Ltd.,
rep. by its Authorized Officer,
Manager Nobili Gracias,
No.72, Marshal Road,
Egmore, Chennai - 8.

4.M.Sangeetha

5.The Tahsildar,
Kundrathur Taluk,
Kundrathur.

6.The Assistant Commissioner of Police,
SRMC Police Station, Porur,
Chennai - 116.

7.The Inspector of Police,
T15, SRMC Police Station,
Lakshmi Nagar, Porur.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling upon the records pertaining to the order passed in Na.Ka.No.3163/2020 dated 12.10.2020 by the 5th respondent and quash the same and consequently forbear the respondent from dispossessing the petitioner from his premises at No.A2 Aditiya Block, Plot No.3 & 4, Rajarathinam Nagar 1st street, Ayyappanthangal, Chennai-56 comprised in Survey No.10/1 & 11/1B Srinivasapuram Village, Allanthur Taluk, Kanchipuram District.

For Petitioner : Mr.P.G.Thiyagu

For Respondents : Mr.Mohan Subramanyan
for M/s.S.Pandurangan
for respondent Nos.1 and 2
: Mr.D.Rajagopal
for respondent No.4

ORDER

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

This petition has run its course and the petitioner has exploited the situation to the hilt much to the prejudice and chagrin of the first respondent secured creditor and the purchaser of the property.

2. There is no dispute that the petitioner obtained credit facilities from the first respondent bank and failed to make repayments in terms of the agreement between the petitioner and the secured creditor. Upon the account turning NPA, the secured creditor proceeded to take steps in terms of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The secured creditor says that the relevant property has been sold in the year 2012 to the fourth respondent, but the petitioner has been able to successfully resist handing over possession for a long time.

3. The secured creditor requested the relevant District Collector for appropriate assistance under Section 14 of the said Act, whereupon the District Collector extended executive assistance and required the fifth respondent Tahsildar to take appropriate steps.

4. It does not appear that the petitioner challenged the measures taken by the secured creditor under Section 13(4) of the Act for sale of the property. In the circumstances, there was no right that the petitioner would have asserted in respect of the secured asset or the steps taken by the secured creditor in respect thereof. Since the petitioner did not make over

possession of the secured asset to the secured creditor, the secured creditor approached the relevant District Collector and, pursuant to the orders of the relevant District Collector, the Tahsildar attempted to make over possession of the property to the secured creditor or the person in whose favour the property was sold. It was at such stage that the petitioner came to this Court and obtained an interim order that continued for a couple of months before it was expressly vacated on December 4, 2020.

5. The petitioner has used the pendency of the present proceedings to resist making over possession of the relevant property. It appears that the purchaser of the property may have already lost hope since matters that enter Courts have a tendency to never come out. It is precisely such perception that the petitioner here has attempted to exploit. There was no basis to the petition and there can be no basis to the petitioner clinging on to the property despite it being sold pursuant to steps taken by the secured creditor against which no protest has been made by the petitioner.

6. W.P.No.15118 of 2020 is dismissed with costs assessed at Rs.30,000/- to be paid by the petitioner to the purchaser of the property. The secured creditor and the purchaser of the property will be at liberty to seek the assistance of the Tahsildar and the Superintendent of Police exercising jurisdiction over wherever the property is situated to make over possession thereof to the secured creditor or to the purchaser, upon consent in such regard given by the secured creditor. The exercise of making over possession to the bank or to the purchaser should be completed within four weeks from date and no resistance put up by the petitioner should stand in the way. Consequently, W.M.P.Nos.18862, 18863 and 18864 of 2020 are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To:

1.The Tahsildar,
Kundrathur Taluk,
Kundrathur.

2.The Assistant Commissioner of Police,
SRMC Police Station, Porur,
Chennai - 116.

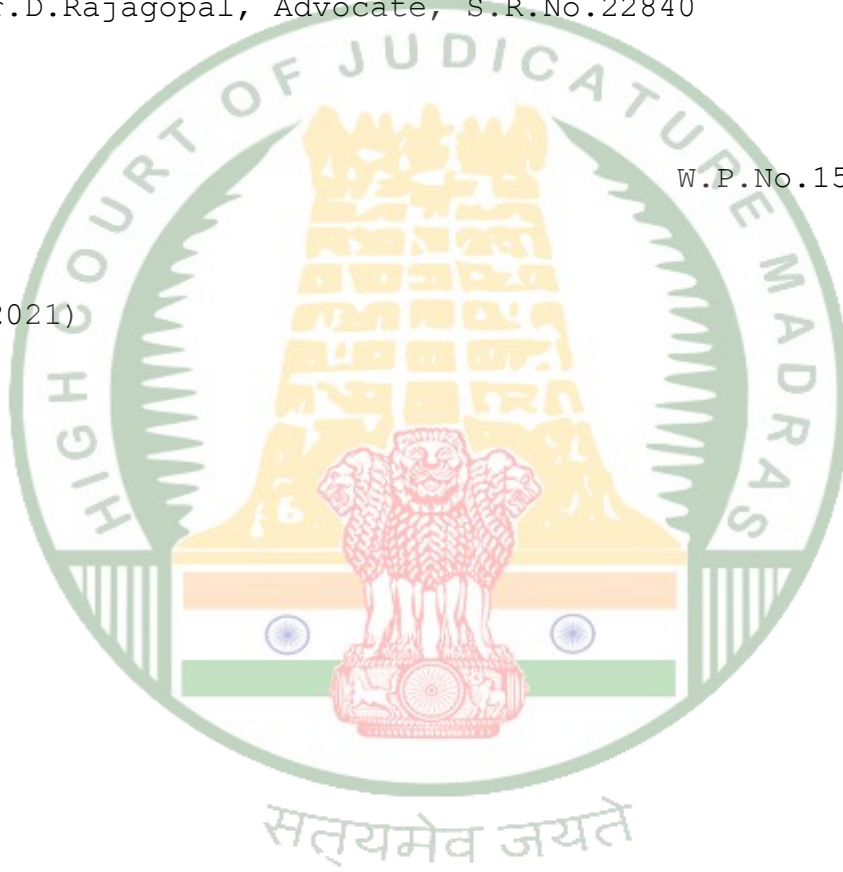
3.The Inspector of Police,
T15, SRMC Police Station,
Lakshmi Nagar, Porur.

+1cc to Mr.S.Pandurangan, Advocate, S.R.No.22672

+1cc to Mr.D.Rajagopal, Advocate, S.R.No.22840

W.P.No.15118 of 2020

GPL (CO)
KM(26/04/2021)



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