

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P.NO.15676 OF 2020
AND W.M.P.NO.19520 OF 2020

1.P.Pushparani
2.P.Santhosh

..Petitioners

-vs-

1.The Authorized Officer,
Stressed Assets Management Branch,
State Bank of India,
No.377/1, Dr.Nanjappa Road,
Behind N.S.Palaniappan Nursing Home,
Coimbatore - 641 018.

2.M/s.Protech Fabricators,
Rep. by its Proprietor, Mr.D.Prabhu.
3.D.Prabhu
4.D.Kokilam

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the respondents to refund the sum of Rs.1,53,00,000/- along with an interest at the rate of 18% per annum from the respective dates of payments till the date of refund of the amount within any time period as may be fixed by this Court.

For Petitioners : Mr.Arun Shabari K.R.

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

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ORDER

(Made by The Hon'ble Chief Justice)

The grievance of the writ petitioners is that despite having paid the secured creditor for the purchase of a property at an auction-sale and despite obtaining a sale certificate, the possession of the immovable property has not yet been made over to the petitioners.

2. The concerned secured creditor, State Bank of India, is represented. According to the bank, the auction-purchasers were aware that possession of the property could not have been immediately made over by the secured creditor. It is further submitted by the secured creditor that a request under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 has been pending with the District Collector, Tiruppur, since February, 2019. For the moment, no immediate order can be made in favour of the writ petitioners since the borrower is not represented and, in any event, it appears that the writ petitioners purchased the property with notice that the borrower was in occupation thereof. What may be done is to request the concerned District Collector to dispose of the secured creditor's request for executive assistance as expeditiously as possible. It may be observed that the sole purpose of Section 14 of the Act is to enable the secured creditor to obtain executive assistance to get possession of a secured asset or documents pertaining thereto. It is completely unacceptable that such a request would remain pending for two or three years. The statute indicates a time-line within which necessary assistance should be rendered in accordance with law.

3. It must also be remembered that no adjudicatory function is undertaken by an authority upon receipt of a request under Section 14 of the Act. Certain declarations are required to be furnished by a secured creditor and if the declarations are furnished, the authority has to provide the assistance required in accordance with law, within a time-bound period. It may do well for the District Collector, Tiruppur, to immediately dispose of the State Bank's request made in February, 2019.

4. W.P.No.15676 of 2020 is disposed of by leaving both the State Bank and the petitioners free to bring this order to the notice of the District Collector, Tiruppur, to goad him to immediate action in accordance with law.

5. In the event the writ petitioners do not obtain the property or so much of the property as has been paid for, it will be open to the writ petitioners to approach the appropriate forum for diminution of price or cancellation of the transaction or the like in accordance with law.

There will be no order as to costs. Consequently, W.M.P.No.19520 of 2020 is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To

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W.P.No.15676 of 2020

CP (CO)
KKV/18/06/2021



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