

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16837 of 2020

R.Singaravelu

...Petitioner

Vs

The Authorised Officer,
HDFC House,
No.29, Kamarajar Road,
Near Circuit House,
Coimbatore-641 018.

...Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the respondent with respect to the auction notice dated 6.8.2020 and quash the same and consequently direct the respondent to restore possession to the petitioner after receiving the entire sale amount (reserve price) with respect to the petitioner's property in Salem Registration District, Mettur Sub-Registration District, P.N.Patti village, Old S.F.578/2B, Natham patta No.1392, S.No.1102/22 in this total measuring 529 sq. ft. of land and building constructed thereon.

For Petitioner : Mr.R.Prabhakaran

ORDER

(Order of the Court was made by SENTHILKUMAR RAMAMOORTHY, J.)

The writ petitioner is admittedly a defaulting borrower of the respondent bank. The challenge is to an auction notice dated August 6, 2020 issued by the respondent bank and for a consequential direction to restore the possession of the petitioner after receiving the entire sale consideration.

2. The facts set out in the affidavit in support of the writ petition disclose that measures have been undertaken by the respondent bank under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security

Interest Act, 2002. Consequently, the writ petitioner is entitled to avail the statutory remedy under Section 17 of the aforesaid Act.

3. The petition also raises disputed questions of fact with regard to servicing of the loan account and these questions of fact cannot be conveniently addressed in proceedings under Article 226 of the Constitution by way of affidavit evidence.

4. Accordingly, we are not inclined to exercise discretionary jurisdiction. Therefore, W.P.No.16837 of 2020 is dismissed. Notwithstanding such dismissal, it is open to the writ petitioner to avail appropriate legal remedies before the appropriate Debts Recovery Tribunal in accordance with law. The time taken in prosecuting the present proceedings and a period of two weeks thereafter shall be excluded while computing the period of limitation if proceedings are carried to the appropriate Debts Recovery Tribunal. No costs. Consequently, W.M.P.Nos.20880 of 2020 and 285 of 2021 are closed.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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Copy to
The Registrar
Debts Recovery Tribunal
Mount Road, Chennai.

सत्यमेव जयते

W.P.No.16837 of 2020

MG (CO)
SP (09/03/2021)

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