



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

WP No.22600 of 2021

and

WMP No.23835 of 2021

N.Ramachandran

... Petitioner

-vs-

1 M/s.City Union Bank Ltd
Rep by its Authorised Officer,
Credit Recovery and Management Department,
Administrative Office, No.3, Dass India Tower,
2nd Floor, 24-B Gandhi Nagar,
Kumbakkonam 612 001.

2 Vionth Sankaran ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of First Respondent M/s.City Union Bank represented by its Authorised Officer a public authority relating to its Impugned Sale Notice bearing No.C.O/REC/NPA/2020-2021 dated 02.09.2020 and hold the resultant order dated 21.01.2021 of the Learned Chief Judicial Magistrate, Kancheepuram at Chengalpattu as an Executive authority made in CrI. M.P.No. 1810/ 2020 as ex-facie illegal, ab-initio invalid and quash the same as exceeding in authority, void in law, rife with infirmities and consequently put in repossession of the property bearing Plot No.08, Sankara Nagar, Stage No.II, measuring an extent of 2400 Sq.ft comprised in survey No.143/1 patta No.1513 as per new survey no.143/1A1A11, situated in Pammal Village, Tambaram Taluk, Kancheepuram District.

For the Petitioner : Mr.M.A.Balasubramanian

ORDER

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

The grievance of the petitioner is that the respondent secured creditor has approached the Chief Judicial Magistrate, Chengalpattu under Section 14 of the Securitisation and



Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 despite a subsisting injunction issued by appropriate Debts Recovery Tribunal.

2. The situation appears to have been compounded in the relevant Chief Judicial Magistrate passing an order that appears to betray that the concerned CJM laboured under a misapprehension that the order had to be made in course of the judicial authority exercised by the Magistrate. However, Section 14 of the Act contemplates administrative assistance and only indicates the persons who may be approached by the secured creditor for requisite assistance to obtain, inter alia, possession of any secured asset or documents pertaining thereto.

3. It is evident that the petitioner is aggrieved by a measure taken by the respondent secured creditor. It is quite possible that the measure taken may have been in breach of a subsisting injunction. In such an event, the petitioner ought to approach the particular forum which passed the injunction. It is also possible for the petitioner to institute proceedings under Section 17 of the Act against the immediate measure adopted by the secured creditor under Section 13(4) of the Act.

4. Either way, the petitioner should not have invoked the extraordinary jurisdiction of this court under Article 226 of the Constitution.

Accordingly, WP No.22600 of 2021 is disposed of without going into the merits thereof and by leaving the petitioner free to approach the appropriate Debts Recovery Tribunal in accordance with law. WMP No.23835 of 2021 is closed. There will be no order as to costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Sra

+2cc to Mr.N.Baskaran, Advocate, S.R.No.54059

WP No.22600 of 2021

PPA (CO)
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