

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2021

CORAM :

The Hon'ble Mr.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P.No.17916 of 2020
and W.M.P.No.22200 of 2020

D.Leela

.. Petitioner

-vs-

1.The Authorised Officer,
LIC Housing Finance Ltd.
Back Office at II Floor, Tristar Towers,
657, Near Lakshmi Mills,
Avinashi Road, Coimbatore 641 037,
and Area Office at 599-B, KVP Arcade
1st Floor, Perundurai Road,
Erode - 11.

2.The Authorised Officer,
Canara Bank (Erstwhile Syndicate bank),
Erode UdyamiMitra Branch,
Erode Municipal Corporation premises,
Opp to Periya Mariamman Temple,
No.246, Brough Road, Erode 638 001.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for respondents to the impugned dispossession notice dated (NIL) of the advocate commissioner in Crl. M.P.No. 4530 of 2020 on the file of the Learned Chief Judicial Magistrate Erode and the impugned Sale notice dated 31.10.2020 of the 2nd respondent Canara Bank and quash the same and further direct the release of the secured movable assets to the lawful custody of the 2nd respondent Canara Bank by the 1st respondent LIC Housing Finance Ltd as inventoried/listed out in his letter dated 11.02.2019 addressed to us and retained by 1st respondent under his lock and key and to further refrain the 2nd respondent from dispossessing selling confirming the sale issuing or

registering the sale certificate of the secured immovable asset of the petitioner pursuant to its sale notice dated 31.10.2020.

For Petitioner : Mr.T.R.Sundaram

For Respondents : Mr.P.Raghunathan
for M/s.T.S.Gopalan & Asso.
For R-2
Mr.Ilayaraja kumar
for M/s.Ramalingam
Associates for R1

ORDER

(Made by The Hon'ble Chief Justice)

It is not a surprise that the mere filing of the writ petition has given the writ petitioner the time that the writ petitioner intended to waste and the very receipt of the writ petition has shooed prospective bidders away. The matter pertains to the credit facilities obtained by the writ petitioner from the respondent-bank, the admitted failure on the part of the writ petitioner to repay in accordance with the agreement between the parties and the refusal of the writ petitioner to approach the appropriate forum and run to the High Court instead. The High Court should be very slow in such a situation to even receive a petition as that would encourage persons of the petitioner's ilk to crowd these corridors instead of being required to pay or make the deposit with the appropriate Debts Recovery Tribunal before seeking to challenge the steps taken by a secured creditor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2.The bank reports that though an auction had been convened to be held on December 4, 2020, there were no takers.

3.There is no merit in the writ petition. At the end of the day, no mandamus can issue commanding the respondents to make any offer or to accept any offer. It is a commercial transaction between a bank and its constituent and it is for the bank to proceed in accordance with law if its constituent fails to repay. It is not as if the constituent is left without a remedy. The provisions of the Act of 2002 merely provide for a remedy to be available at a particular stage.

4. There is no merit in the writ petition. The bank has been needlessly dragged into the unnecessary proceedings.

W.P.No.17916 of 2020 is dismissed with costs assessed at Rs.5,000/- to be paid by the writ petitioner to the respondent-bank. The bank will be entitled to take all steps available to it in accordance with law and the writ petitioner will also be entitled to seek such statutory remedies as may be open to her. Consequently, W.M.P.No.22200 of 2020 is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sra

To,

1.The Authorised Officer,
LIC Housing Finance Ltd.
Back Office at II Floor, Tristar Towers,
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and Area Office at 599-B, KVP Arcade
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Erode Municipal Corporation premises,
Opp to Periya Mariamman Temple,
No.246, Brough Road, Erode 638 001.

+1cc to Mr.T.R.Sundaram , Advocate SR.No. 5779

+1cc to M/s.T.S.Gopalan And Co , Advocate SR.No. 5495

W.P.No.17916 of 2020

LN co

A.SK(16.02.2021).

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