



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

W.P.Nos.19585 of 2020 and 10373 of 2019

W.P.No.19585 of 2020

M/s.Central Bank of India
Head office at chandermuki Nariman point
Mumbai-400021 And branches among other
places at 15 NSR Road, Saibaba Colony
Coimbatore represented by
its Authorised Officer

...Petitioner

Vs

- 1 M/s.New Deep Ocean Dry Fish
Represented by partners 259 (New No.34)
Arunachalam Road (East) R.S.Puram
Coimbatore -2
- 2 M/s.S Deep ocean vision (Dry Fish)
Represented by proprietor A.Arun
- 3 A.Arun
- 4 A.Bhuvaneshwari
- 5 The District Magistrate and
The District collectdor of coimbatore Huzur
Road coimbatore-18
- 6 Nalini
- 7 Rangaiyaan
- 8 P.Rajendran
- 9 P.Pugalendhi
- 10 S.Arunkumar

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records in Ref.No.24939 / 2016 / E3 on the file of the 5th respondent and to quash the order passed in Ref.No.24939/2016/E3 dated 17.7.2018 and consequently order Ref.24939/2016/E3 filed by the petitioner.



WEB COPY

For the Petitioner : Mr.T.M.Hariharan

For the Respondents : Mr.Sudhakar,
for Ms.Vijay,
for respondents 6 to 10

Mr.P.Muthukumar,
State Government Pleader,
for fifth respondent

Mr.Mohammed Nazruddeen
of respondents 1 to 4

W.P.No.10373 of 2019

Indhira Jagatheesan

...Petitioner

Vs

1 The Authorised Officer,
Registered Office at
Central Bank of India,
Variety Hall Road, Coimbatore

2 The Manager
Central Bank of India,
Sai Baba colony Branch,
Coimbatore

3 The District Magistrate
and District Collector, Coimbatore

4 A.Arun

5 A.Bhuvaneshwari

6 P.Pugalendhi

7 P.Rajendran

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the Respondents 1 and 2 herein to refund the sale consideration of Rs.79,30,000/- with interest of 18 percent per annum from the date of purchased till it realization by cancelling the sale certificate dated 7.02.2017 issued by the Respondents 1 to 2 and registered under Document No.614/2017 at the Office of the Coimbatore District Registrar relating to the secured asset a building with titled house located in T.S.No.7/912 in Door No.259 (new Door No.34) Arunachalam Road (East) R.S.Puram Coimbatore-2 mortgaged by the 5th Respondent.

For the Petitioner : Mr.A.Sriram
for M/s.L.Mouli



WEB COPY

For the Respondents

: Mr.T.M.Hariharan
for respondents 1 and 2

Mr.P.Muthukumar,
State Government Pleader,
for third respondent

Mr.Mohammed Nazruddeen
of respondents 4 and 5

COMMON ORDER

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

The grievance of the petitioning secured creditor is that in course of its request to the fifth respondent District Magistrate, Coimbatore, the District Magistrate assumed the role of an adjudicator which prompted the other respondents herein to quickly jump into the fray to scuttle the petitioner's efforts to proceed against a secured asset furnished by the borrowers while obtaining credit facilities from the petitioner.

2. The borrowers and the purported tenants who rely on unregistered leases, are represented. Such persons seek to assert varying rights over the property in question.

3. No useful purpose would be served in flogging a dead horse. The initial request has culminated in the District Collector expressing his inability to render assistance in view of the manifold disputes that have been raised by the other parties herein.

4. The petitioner should treat the previous episode as closed. Nothing in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 prohibits a secured creditor from approaching an authority under Section 14 of the Act afresh for the purpose of obtaining the securities or the documents pertaining to such securities.

5. As to the role of the authority approached under Section 14 of the Act, the law is clear and the original provisions of the Act of 2002 have undergone substantial change since. In short, the authority in receipt of a request under Section 14 of the Act does not discharge any adjudicatory functions. Certain declarations are required to be furnished and the authority has to accept the declarations at face value. The authority in receipt of request has only to assess whether the prayer for assistance is reasonable and issue orders to the Superintendent of Police or other executive functionaries to provide the



requisite assistance so that the secured creditor may reach the secured asset or documents pertaining thereto.

6. Accordingly, W.P.No.19585 of 2020 is disposed of by permitting the petitioning secured creditor to carry a fresh representation to any appropriate authority under Section 14 of the Act of 2002 for such authority to receive the same and deal with the matter as expeditiously as possible and in accordance with law.

7. It is made clear that the rights asserted by the other respondents have not been gone into, as they could not have been. However, it is also observed that such rights have to be asserted by the respondents in appropriate proceedings under Section 17 of the said Act.

8. There will be no order as to costs.

9. In the light of the order passed on W.P.No.19585 of 2020, the other petition, W.P.No.10373 of 2019, filed by the purchaser of the relevant immovable property at an auction-sale conducted by the secured creditor, is disposed of by requesting the auction-purchaser to wait for a reasonable period to enable the secured creditor to approach the appropriate functionary under Section 14 of the Act to obtain possession of the secured asset. Again, there will be no order as to costs.

Sd/-

Assistant Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

tar

To:

- 1 The Authorised Officer,
Registered Office at
Central Bank of India,
Variety Hall Road, Coimbatore
- 2 The Manager
Central Bank of India,
Sai Baba colony Branch,
Coimbatore.



3

The District Magistrate
and District Collector, Coimbatore
Huzur Road coimbatore-18

WEB COPY

+2ccs to Mr.T.M.Hariharan, Advocate, S.R.No.44716,44717
+1cc to Mr.L.Mouli, Advocate, S.R.No.44843

W.P.Nos.19585 of 2020
and 10373 of 2019

BR (CO)
CT/06/09/2021