IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

WP NO.23472 OF 2021
AND
WMP NOS.24712 TO 24714 OF 2021

1.L.K.Kumar
2.Dr.Uma Kumar ...Petitioners

Vs.

1.Repco Home Finance Ltd.,
rep. By its authorised officer,
Repco Towers,
No.3, North Usman Road,
T.Nagar, Chennai 17

2.The Branch Manager,
Repco Home Finance ltd.,
Hosur Branch,
Krishnagiri District ...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for records relating to the proceedings of the respondents vide No.9/2 dated 03.09.2021 and quash the same.

For the Petitioners : Mr.K.Nagarajan

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

The petition is utterly misconceived and completely without any basis.

2. The challenge here is to an e-auction sale notice dated September 3, 2021 issued by Repco Home Finance Limited.

3. For a start, it must be recorded that there have been several misdirected challenges upon Repco Home Finance Limited invoking the jurisdiction available under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, on the ground that Repco Home Finance Limited has been promoted by Repco Bank Limited, and Repco Bank Limited does not fall within the definition of a 'secured creditor', as indicated in the Act of 2002. While it has been held by this court that Repco Bank Limited is not a secured creditor within the meaning of the definition in the said Act, in matters pertaining to Repco Home Finance Limited, it has been specifically held that in view of the notification issued in favour of Repco Home Finance Limited by the Central Government, Repco Home Finance Limited is a secured creditor within the meaning of the definition in the Act of 2002 and it is utterly irrelevant that it may be promoted by Repco Bank Limited, which may not be a secured creditor within the meaning of the definition in the Act of 2002. It must also be recorded that the matter pertaining to Repco Bank Limited, has been carried to the Supreme Court and the Supreme Court has issued notice to the Reserve Bank as to whether the position may be altered.

4. In the present case, the prayer is for quashing the impugned notice dated September 3, 2021. The petitioners say that harsh conditions have been imposed for the auction sale not to be conducted and the petitioners need breathing time to repay the secured creditor.

5. It is elementary that under the Act of 2002, any person aggrieved, including borrowers as the petitioners in this case, by any measure taken by a secured creditor under Section 13(4) of the Act may approach the jurisdictional Debts Recovery Tribunal with the grievance.

6. Since there is a statutory provision for dealing with grievances of the present kind and a speciailsed body has been set up for such purpose, the writ petitioners ought not to have invoked the extraordinary jurisdiction under Article 226 of the Constitution and should have carried the grievance to the relevant Debts Recovery Tribunal within the time permitted.

7. WP No.23472 of 2021 is not entertained since there is an efficacious alternative remedy available to the petitioners. There will be no order as to costs. W.M.P.Nos.24712 to 24714 of 2021 are closed.

Sd/-
Deputy Registrar (CS)

// True Copy //

Sub Assistant Registrar

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+1cc to Mr.K.Nagarajan, Advocate SR.No.57525

WP No.23472 of 2021

SMI(CO)
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