



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P. NO.25212 OF 2021
AND
W.M.P. NOS.26587 TO 26589 OF 2021

1. M.Kumar

2. Stella Mary

...Petitioners

-vs-

1. The Authorised Officer,
State Bank of India,
RBO, 54-Uthukuli Road,
Thiruppur.

2. Velumani

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of writ of Certiorari calling for the records of the sale deed executed by the first respondent in favour of the second respondent registered as Doc.No.1642 of 2020 at the Joint-I Sub Registrar of Tiruppur dated 12.02.2020 pertaining to the property at Site Nos.259, 260, 34 in SF.No.701/1, SF.No.702/2A, SF.No.702/2B in Guruvaryurappan Nagar Bommanaickenpalayam East, Nerupperichal Village, Joint I Sub Registration District, Thiruppur Registration District and to quash the same.

For Petitioners : Mr.M.Saravanakumar



ORDER

[Order of this Court was delivered by T.RAJA, J.]

Challenging the sale deed dated 12.02.2020 executed by the first respondent in favour of the second respondent, registered as Doc.No.1642 of 2020 at the Joint-I Sub Registrar of Tiruppur pertaining to the property situated at Site Nos.259, 260, 34 in SF.No.701/1, SF.No.702/2A, SF.No.702/2B in Guruvaryurappan Nagar Bommanaickenpalayam East, Nerupperichal Village, Joint I Sub Registration District, Thiruppur Registration District, the petitioners have come to this Court with this writ petition.

2.Learned counsel appearing for the petitioners submitted that the petitioners are husband and wife respectively and that the second petitioner was the previous owner of the petition mentioned property through a Sale Deed bearing Doc. No.5285/2006. While so, the petitioners availed the loan from the first respondent Bank, who classified the account of the petitioners as NPA dated 29.06.2017, for which, demand notice was received by the petitioners on 07.08.2017. Followed thereby, a possession notice dated 07.08.2017 was issued to the petitioners and subsequently, sale notice dated 26.06.2018 was also issued by the first respondent fixing the date for auction of secured assets. Aggrieved by the same, S.A. No.86 of 2018 was filed by the petitioners and the same is pending before the Debt Recovery Tribunal, Coimbatore. In the meanwhile, the first respondent Bank approached the District Magistrate, Tiruppur for physical possession of secured assets under Section 14(1) of the SARFAESI Act. Without any proper enquiry and notice, the District Magistrate, Tiruppur passed an order dated 21.08.2021 in Ref.No.14588/2020/C-3, violating the principles of natural justice and the provisions of SARFAESI Act, demanding the amount of Rs.51,79,000/- from the petitioners. Challenging the physical possession, the petitioners have filed another S.A. No.563 of 2021 before the Debt Recovery Tribunal, Coimbatore and the same is also pending for disposal.

3.Learned counsel appearing for the petitioners further submitted that when the petitioners were taking steps to serve notice to the first respondent in S.A. No.563 of 2021, they came to know that the above property was sold away to the second respondent in a public auction. Aggrieved by the same, the petitioners have come to this Court. Learned counsel appearing for the petitioners also submitted that since the petitioners have already approached the Debt Recovery Tribunal in S.A. No.86 of 2018 against the sale notice dated 26.06.2018 and in S.A. No.563 of 2021 against the physical possession of the property and the same are pending for consideration, selling away the



property in public auction by the first respondent is unjustified and untenable.

4. But we are unable to find any justification on the submissions made by the learned counsel appearing for the petitioners. When the petitioners have already approached the Debt Recovery Tribunal, Coimbatore by filing two SARFEASI Appeals in S.A. Nos.86 of 2018 and 563 of 2021 challenging the sale notice dated 05.02.2018 and physical possession of the property, if they had grievance that their property has been auctioned under the SARFAESI Act and they are facing risk at the hands of the first respondent bank, they ought to have come to this Court within a reasonable time. When the auction was held on 15.03.2019, after sleeping over the matter for about two years, the petitioners cannot come to this Court by filing this writ petition belatedly. Therefore, the writ petition is liable to be dismissed. Accordingly, this writ petition stands dismissed. Consequently, connected W.M.Ps are closed. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

vga

To

The Authorised Officer,
State Bank of India,
RBO, 54-Uthukuli Road,
Thiruppur.

W.P. No.25212 of 2021

PVS(CO)
RLP(09/12/2021)