



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DURAISWAMY
AND
THE HON'BLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P. No.27007 of 2021
and
W.M.P. No.28452 of 2021

Smt. P.Samathal

..Petitioner

v.

1 The Presiding Officer,
Debts Recovery Tribunal,
Coimbatore.

2 The Authorized Officer,
State Bank Of India,
Stressed Assets Recovery Branch,
377/1, Dr. Nanjappa Road,
Behind N.S. Palaniappan Nursing Home,
Coimbatore - 641 018.

3. Mr. P. Ramamoorthy

4. Idea Property Developers,
Represented by its Proprietor,
Mr.V.Rajamanickam, S/o. Veeraprakasham,
No.312, Best Complex,
Kumaran Road,
Tirupur District.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus, directing the 2nd respondent to receive the entire e-auction sale amount which was conducted by the 2nd respondent dated 30.09.2021 in so far as the petitioner property is concerned and consequently directing the 2nd respondent not to take any coercive steps against the schedule mentioned property in S.F.No.435, Patta No.2217 situated at No.15, Velampalayam, Tirupur Taluk, till the disposal of the S.A. Petition in S.A.No. 721/2021 on the file of the 1st respondent within stipulated time.



For Petitioner : Mr.M.Dinesh
for M. Natarajan

For Respondent : Mr. V. Kathirvelu - R2

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O R D E R

(Order of the Court made by M. DURAISWAMY, J.)

The petitioner, who is the borrower, has filed the above Writ Petition to issue a Writ of Mandamus, directing the 2nd respondent to receive the entire e-auction sale amount which was conducted by the 2nd respondent dated 30.09.2021 in so far as the petitioner's property is concerned and consequently directing the 2nd respondent not to take any coercive steps against the schedule mentioned property in S.F.No.435, Patta No.2217 situated at No.15, Velampalayam, Tirupur Taluk, till the disposal of the S.A. Petition in S.A.No. 721/2021 on the file of the 1st respondent within stipulated time.

2. It is not in dispute that the petitioner stood as guarantor in respect of the loan borrowed by the 3rd respondent from the 2nd respondent-Bank. Since the borrower committed default in repaying the loan amount, the 2nd respondent-Bank initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI') and issued a notice dated 31.03..2021 under section 13(2) of SARFAESI Act and also issued Possession Notice dated 28.07.2021 under section 13(4) of SARFAESI Act and took possession of the property. Thereafter, the property was brought to sale and sold in favour of the 4th respondent.

3. Challenging the e-auction sale, the petitioner filed a Securitization Appeal in S.A.No.721 of 2021 before the Debts Recovery Tribunal, Coimbatore. Subsequently, the 1st respondent issued the sale certificate in favour of the 4th respondent, which was also challenged by the petitioner in S.A.No.721 of 2021, before the Debts Recovery Tribunal, Coimbatore.

4.The guarantor has filed the above Writ Petition contending that she is ready and willing to pay the entire outstanding amount. When the Securitization Appeal is pending before the Debts Recovery Tribunal, Coimbatore, the petitioner should have sought for her remedy only before the Debts Recovery Tribunal and not under Article 226 of the Constitution of India by filing a Writ Petition. The petitioner can work out her remedy before the Debts Recovery Tribunal, Coimbatore, in accordance with law.



5. In these circumstances, we are not inclined to entertain the Writ Petition. Accordingly, the Writ Petition is dismissed. The Debts Recovery Tribunal, Coimbatore is requested to dispose of the Securitization Appeal in S.A.No.721 of 2021, as expeditiously as possible, in any event, not later than one year from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Rj

To

1. The Presiding Officer,
Debts Recovery Tribunal,
Coimbatore.
2. The Authorized Officer,
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Stressed Assets Recovery Branch,
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W.P. No.27007 of 2021
and
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RLD(CO)
RGA(06/01/2022)