BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.02.2021
CORAM :
The Hon'ble Mr.SANJIB BANERJEE, THE CHIEF JUSTICE
AND
The Hon'ble Mrs.JUSTICE R.HEMALATHA

W.P.(MD) No.1198 of 2021
and
W.M.P(MD)Nos.1031 and 1032 of 2021

C.Renjit Mony .. Petitioner

Vs

The Authorized Officer,
HDFC Bank,
H.D.F.C House,
Vazhuthiacaud,
Thiruvananthapuram 695 010,
Kerala. .. Respondent

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus, directing the respondent to not to confirm any sale regarding the petitioner property in SY.No.187/1 in Mecode Village, Kalkulam Taluk, Kanniyakumari District, and direct the respondent to permit the petitioner to settle the loan account and redeem his property.

For Petitioner : Mr.P.Nethaji

ORDER

[Order of the Court was made by ***The Hon'ble Chief Justice***]

This is another frivolous petition filed by a defaulter against the steps taken by the secured creditor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2.It is an admitted position that the respondent bank has taken measures under Section 13(4) of the Act.

3.At paragraph 4 of the synopsis, the writ petitioner refers to even an order of March 17, 2008 that was forwarded by the District Collector.

4.The Scheme of the Act of 2002 is such that it allows the secured creditor to proceed against the securities and for the measures taken by the secured creditor to be adjudicated upon at such stage. Once the secured creditor takes steps under Section 13 (4) of the Act, any person aggrieved thereby may approach the appropriate Debts Recovery Tribunal under Section 17 of the Act. Section 17 of the Act is an expansive provision that permits all and sundry to approach the Tribunal, provided the person can show that he is prejudiced by any measure taken by the concerned secured creditor. Indeed, the word 'borrower' is indicated in parenthesis in the relevant provision, preceded by the word 'including'.

5.The dispute between the bank and its loanee involves disputed questions of facts, voluminous accounts and vexatious calculation.

6.In summary proceedings conducted on affidavit evidence as writ petitions are, it is not convenient to address such vexatious issues. In any event, there is an efficacious alternate remedy recognised by the governing statute. The petitioner's pretended grievance herein is the alleged non- compliance with the Security Interest (Enforcement) Rules, 2002 by the Bank in the present case.

7.This was a grievance that could have been carried to the relevant Tribunal and if the petitioner has not chosen to do so and approached this extraordinary jurisdiction, the petitioner has so chosen at the petitioner's peril. For the the aforesaid reasons, the present writ petition is not entertained and the petitioner is left free to pursue the petitioner's remedy in accordance with law. If limitation has stepped in, so be it. This Court cannot come to the rescue of a vexatious litigant, who had consciously avoided the forum available.

8.W.P.(MD) No.1198 of 2021 is dismissed. W.M.P(MD)Nos.1031 and 1032 of 2021 is also dismissed. There will be no orders as to costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note : *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned*.

TO

The Authorized Officer,
HDFC Bank,
H.D.F.C House,
Vazhuthiacaud,
Thiruvananthapuram 695 010,
Kerala.

+1 CC to M/s.NETHAJI.R, Advocate (SR-7059[F] dated 24/02/2021)

W.P.(MD) No.1198 of 2021
24.02.2021

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