



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]Nos.12971, 13480 to 13484 of 2017

and

W.M.P(MD) Nos.10055, 10056 of 2017, 15732, 15790,

15768, 15730, 15765 & 15785 of 2020

10557,10559,10561,10563,10565 of 2020

W.P.[MD]No.12971 of 2017

V.Muthaiyan

... Petitioner in WP(MD).
No.12971 of 2017

1. R.Kumar, ... Petitioner(s) in WP(MD). 13480/ 2017

1. P.Vijayakumar ... Petitioner(s) in WP(MD). 13481/ 2017

1. K.Arokiaraj ... Petitioner(s) in WP(MD). 13482/ 2017

1. P.Francis Raja, ... Petitioner(s) in WP(MD). 13483/ 2017

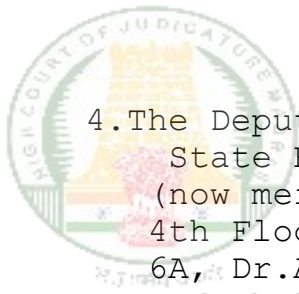
1. S.Raja, ... Petitioner(s) in WP(MD). 13484/ 2017

Vs.

1.The Regional Director,
Reserve Bank of India
South Zonal Office
No.16, Rajaji Salai,
Fort Glacis,
Chennai - 600 001.

2.The Managing Director
State Bank of Travancore
(now merged with State Bank of India)
P.B.No.34, Poojapura,
Thiruvananthapuram - 695 012.

3.The Chief Vigilance Officer
State Bank of Travancore
(now merged with State Bank of India)
P.B.No.34, Poojapura,
Thiruvananthapuram - 695 012.



4.The Deputy General Manager
State Bank of Travancore
(now merged with State Bank of India)
4th Floor, Centennial Square,
6A, Dr.Ambedkar Road,
Kodambakkam,
Chennai - 600 024.

5.The Chief Manager
State Bank of Travancore
(now merged with State Bank of India)
Tiruchirappalli Branch,
No.34, Subbaiah Pillai Towers,
Chinnakadai Veethi,
Trichy - 620 002.

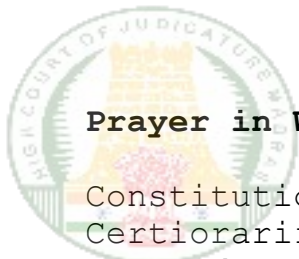
6.The Authorized Officer
State Bank of Travancore
(now merged with State Bank of India)
Tiruchirappalli Branch,
No.34, Subbaiah Pillai Towers,
Chinnakadai Veethi,
Trichy - 620 002.

7.Suresh Thirumalai
Proprietor,
Sri Aditya Builders,
No.9, SV Complex,
2nd floor,
Musiri,
Trichy District.

8.Kattabomman,
Chief Manager
State Bank of Travancore
(now merged with State Bank of India)
Tiruchirappalli Branch,
No.34, Subbaiah Pillai Towers,
Chinnakadai Veethi,
Trichy - 620 002.

... Respondents in all Wps.

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 6th respondent relating to the impugned records of the 6th respondent relating to the impugned Notification No.Nil dated 12.06.2017 bringing the petitioner's property bearing Plot No.18, S.No.259/2 measuring 1125 sq.feet of M.Pudupatti Village, Musiri Taluk, Trichy District, along with building thereon for sale, quash the same and direct the respondents 1 to 6 to conduct enquiry on the petitioner's complaint, dated 15.12.2015.



Prayer in WP(MD) . 13480/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records of the 6th respondent relating to the impugned Notification No. Nil, dated 12.06.2017 bringing the petitioners property bearing Plot No.24, S.No.259/2 measuring 1160 sq.feet of M.Pudupatti village, Musiri Taluk, Trichy District along with building thereon for sale, quash the same and direct the respondents 1 to 6 to conduct enquiry on the petitioners complaint dated 15.12.2015.

Prayer in WP(MD) . 13481/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records of the 6th respondent relating to the impugned Notification No. Nil, dated 12.06.2017 bringing the petitioners property bearing Plot No.26, S.No.259/2 measuring 1125 sq.feet of M.Pudupatti village, Musiri Taluk, Trichy District along with building thereon for sale, quash the same and direct the respondents 1 to 6 to conduct enquiry on the petitioners complaint dated 15.12.2015.

Prayer in WP(MD) . 13482/ 2017 :

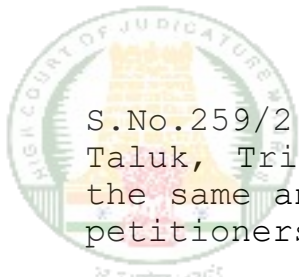
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records of the 6th respondent relating to the impugned Notification No. Nil, dated 12.06.2017 bringing the petitioners property bearing Plot No.32, S.No.259/2 measuring 1642 sq.feet of M.Pudupatti village, Musiri Taluk, Trichy District along with building thereon for sale, quash the same and direct the respondents 1 to 6 to conduct enquiry on the petitioners complaint dated 15.12.2015.

Prayer in WP(MD) . 13483/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records of the 6th respondent relating to the impugned Notification No. Nil, dated 12.06.2017 bringing the petitioners property bearing Plot No.17, S.No.259/2 measuring 1125 sq.feet of M.Pudupatti village, Musiri Taluk, Trichy District along with building thereon for sale, quash the same and direct the respondents 1 to 6 to conduct enquiry on the petitioners complaint dated 15.12.2015.

Prayer in WP(MD) . 13484/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records of the 6th respondent relating to the impugned Notification No. Nil, dated 12.06.2017 bringing the petitioners property bearing Plot No.31,



S.No.259/2 measuring 1125 sq.feet of M.Pudupatti village, Musiri Taluk, Trichy District along with building thereon for sale, quash the same and direct the respondents 1 to 6 to conduct enquiry on the petitioners complaint dated 15.12.2015.

In all writ petitions

For Petitioners : Mr.M.Saravanan
For R-2 to R-6 : Mr.N.Dilip Kumar
Standing counsel

COMMON ORDER

(Order of the Court was made by **T.S.SIVAGNANAM, J.**)

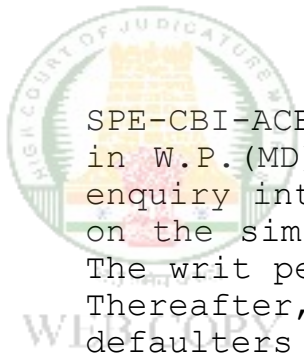
Heard Mr.M.Saravanan, learned counsel appearing for the petitioners, Mr.N.Dilip Kumar learned Standing counsel appearing for the respondents 2 to 6.

2.All these writ petitions have been filed by the borrowers of housing loan from the erst-while State Bank of Trivancore, Trichirapalli Branch, for the project which was developed by the seventh respondent, Mr.Suresh Thirumalai, Proprietor, Sri Aditya Builders.

3.The petitioners have alleged fraud said to have been taken place as the then Chief Manager of the erst-while State Bank of Trivancore, (hereinafter referred to as "SBT") who has been impleaded in the personal capacity as eighth respondent, colluded with the seventh respondent and funds were released to the seventh respondent in full, even prior to the completion of the project. The net result was all the petitioners did not service the loan account as a result they became defaulters. Obviously, the SBT had to initiate action and thereafter, proceeded under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the SARFAESI Act").

4.The petitioners challenge the measures taken by the SBT by approaching the Debt Recovery Tribunal, in which, an order of interim stay was granted subject to certain conditions, but the same were not complied with. Consequently, the stay petitions ought to have been dismissed and the petitioners did not pursue the SARFAESI appeals filed before the Debt Recovery Tribunal.

5.The petitioners' concentration stood diverted and how to bring to hooks the then Chief Manager of the erstwhile SBT and the petitioners also came to know that already the management of SBT had given a complaint and the matter was investigated by the Central Bureau of Investigation (CBI) and First Information Report was registered in Crime No.RC MA1 2014 A0018 on the file of the Chennai



SPE-CBI-ACB, and therefore, filed a writ petition before this Court in W.P.(MD) No.893 of 2016, praying for a direction to conduct an enquiry into the complaint given by the petitioners, which were also on the similar lines that of the complaints already taken on file. The writ petition was disposed of placing on record the development. Thereafter, it appears that the petitioners continue to remain as defaulters did not pay any amount towards loan account and when the house properties were put up for sale, pursuant to e-auction sale notice, dated 12.06.2017, the present writ petitions have been filed. At the time when the writ petitions were entertained, an interim order was granted, which was subsequently made absolute.

6.The first limb of the prayer sought for by the writ petitioners to quash the e-auction sale notice, has worked itself out, since the e-auction sale was not conducted, as an order of interim stay was granted and the date fixed for e-auction has already been lapsed. Therefore, nothing survives in the e-auction sale notice impugned in these writ petitions.

7.The second limb of the prayer concerns the enquiry into the complaint given by the petitioners, dated 15.12.2015.

8.In our considered view, the second limb of the prayer is an independent cause of action and it cannot be a consequential relief to the writ petitions filed to quash the e-auction notice. Therefore, the second limb of the prayer sought for in these writ petitions cannot be granted.

9.Thus, we would have been well justified to close the matter and dispose the writ petitions with the above observations. However, we find that the petitioners have all purchased meagre extent of land in a project developed with the seventh respondent, which appears to be a gated community and according to the petitioners, four of the houses still remain unfinished, the remaining two have been pooled from their personal resources and completed the unfinished building left as such by the seventh respondent.

10.In such circumstances, it may be a fit case where the Respondent Bank namely, the State Bank of India to which SBT has now been merged, to consider the cases of the petitioners and the fact that the then Chief Manager of SBT has also been arrayed as an accused in a criminal case and he has been proceeded departmentally and punishment has been imposed and his continuance is subject to result of the criminal case and a quietus can be given to the matter, as we are informed that the outstanding is roughly about Rs.50,00,000/- (Rupees Fifty Lakh only) for each of the writ petitioners.

<https://hcservices.ecourts.gov.in/hcservices> In the light of the above, we dispose of the writ



petitions by giving liberty to the petitioners to submit a detailed representation along with their offer and place the same for consideration before the appropriate authority of the State Bank of India, who shall take note of the representation and proceed to take action in accordance with the relevant regulations.

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12.It is submitted by the learned counsel for the petitioners that certain sums of money have been paid by two of the writ petitioners to show their bona-fide and the said sum is retained in a suspense account. If the said submission is correct, the respondent-State Bank of India shall also take note of the remittance to adjust the account of the borrowers, as on date if not earlier.

13.With the above observations, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RM

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

1.The Regional Director,
Reserve Bank of India
South Zonal Office
No.16, Rajaji Salai,
Fort Glacis,
Chennai - 600 001.

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-22750[F] dated 15/07/2021)

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-22720[F] dated 15/07/2021)

W.P.[MD]Nos.12971, 13480 to 13484 of2017
14.07.2021

SE (CO)

KB(23.07.2021) 6P 4C