



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

CORAM :

THE HONOURABLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.NO.10209 OF 2022
AND
W.M.P.NO.9914 OF 2022

D.Palani, S/o Mr.M.Deivasigamani,
represented by his Power of Attorney
Mr.D.Velayutham

...Petitioner

Vs.

- 1.The Authorised Officer,
Credit and Management Department,
City Union Bank Ltd.,
"Narayana" Admin Office,
No.24.B, Gandhi Nagar,
Kumbakonam 612 001.
- 2.City Union Bank Ltd.,
Nanganallur Branch,
No.24.A, 29th Street,
Nanganallur,
Chennai-600 061.
Represented by its Branch Manager.
- 3.Ms.V.R.Chandrika
- 4.Mr.P.V.Ramesh Kumar
- 5.Mrs.R.Kalaivani

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to Notice of intended Sale under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, vide the Office Letter CO/REC/NPA/2022, dated 28.03.2022 from the first respondent, namely the Authorised Officer, Credit and Management Department, City Union Bank Ltd., "Narayana", Admin Office



No.24.B, Gandhi Nagar, Kumbakonam-612 001 and quash the same and further forbear the respondents from interfering with the possession of the petitioner's property all that piece and parcel of vacant house site bearing Plot No.64, measuring 1185 Square Feet and Plot No.66, measuring 1180 Square Feet, at Shanmuga Nagar, comprised in Survey No.42 of Karanai Village, Chengalpet Taluk, South Chennai District: Boundaries of Plot No.64, North by: Plot No.65, South by: Plot No.63, East by: 20 feet wide Road, West by: Plot No.91, and Boundaries of Plot No.66, North by Plot No.67, South by Plot No.65, East by: 20 feet wide Road, West by: Plot No.59, situate within the Sub-Registration District of Thiruporur and Registration District of Chengalpet.

For petitioner : Mr.M.Simon

ORDER

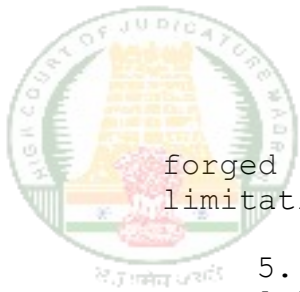
(The Order of the Court was made by The Honourable Chief Justice)

By this Writ Petition, challenge is made to the sale under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).

2. Learned counsel for the petitioner submitted that based on the forged signature, the respondents 1 and 2/Bank are proceeding to sell the property in question by invoking Rule 8 (6) of the said Rules of 2002 and that too, when it is barred by limitation. The petitioner, before approaching this Court, had preferred an appeal before the Debts Recovery Tribunal raising both the issues as are raised before this Court. The Debts Recovery Tribunal disposed of the appeal, without recording a proper finding on the issue. Accordingly, the respondents are now proceeding to sell the property belonging to the petitioner based on the forged document, otherwise, it would be barred by limitation.

3. We have considered the submissions made by the learned counsel for the petitioner and perused the materials available on record.

4. The facts on record and as stated by the learned counsel for the petitioner, show that the petitioner earlier preferred an appeal before the Debts Recovery Tribunal raising the issue as urged by him to challenge the proceedings for the sale under Rule 8(6) of the Rules of 2002. It is admitted by the learned counsel for the petitioner that the appeal preferred by the petitioner, has been disposed of by the Debts Recovery Tribunal, though it is said to be without properly analysing the issue of



forged signature of the document and also on the issue of limitation.

5. The fact remains that the petitioner has not preferred appeal before the Debts Recovery Appellate Tribunal challenging the order of the Debts Recovery Tribunal, if the issues were not analysed or decided after considering the submissions of the petitioner or based on the materials available on record. The issue which has been taken up and decided by the Debts Recovery Tribunal, cannot be raised again on the proceedings of sale under Rule 8(6) of the Rules of 2002, having concluded against the petitioner and even attained finality, in the absence of challenge to the said order by maintaining an appeal before the Debts Recovery Appellate Tribunal.

6. In view of the above, it is not open for the petitioner to raise the same issue as were considered by the Debts Recovery Tribunal in the appeal preferred by the petitioner. The challenge to the sale proceedings under Rule 8(6) of the Rules of 2002, cannot be interfered with by this Court, in the light of the facts given above.

7. Accordingly, the Writ Petition fails and the same is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (CS)

// True Copy //

Sub Assistant Registrar

CS

To

1. The Authorised Officer,
Credit and Management Department,
City Union Bank Ltd.,
"Narayana" Admin Office,
No.24-B, Gandhi Nagar,
Kumbakonam - 612 001.

2. The Branch Manager,
City Union Bank Ltd.,
Nanganallur Branch,
No.24.A, 29th Street,
Nanganallur, Chennai-600 061.

+1cc to M/s.M.Simon, Advocate Sr.No.27736

W.P.No.10209 of 2022

NK(CO)

RVM(02/05/2022)