



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.15808 of 2022
and
W.M.P.No.15096 of 2022

M.Vivek

.. Petitioner

vs

1. The Authorised Officer
Grihashakti
Fullerton India Home Finance Co.Ltd.,
No.179, Krishnaswamy Mudaliyar Road
R.S.Puram, Opp.to Brookfield Mall
Coimbatore.
2. The Sub-Registrar,
Nallur, Tiruppur District.
3. R.Saravanan
4. The Inspector of Police
Nallur Police Station, Tiruppur.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd Respondent not to register the sale deed presented by the 1st respondent in pending Document No. P/ Nallur_Tiruppur / 5/ 2022 in favour of the 3rd Respondent pending disposal of S.A. No. 454 of 2021 S.A. No. 128 of 2022 and S.A. No. 303 of 2022 on the file of the Learned Debt. Recovery tribunal Coimbatore by considering the petitioners representation dated 06.06.2022 and consequently direct the Learned Debt Recovery tribunal Coimbatore to dispose of the above said cases within a time frame as fixed by this Hon'ble Court.

For the Petitioner : Mr.D.R.Arunkumar



ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

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The writ petition has been filed to seek a direction on the 2nd respondent not to register the sale deed presented by the 1st respondent pending disposal of S.A.No.128 of 2022 before the Debts Recovery Tribunal.

2. Learned counsel for the petitioner submits that during the pendency of the S.A., the sale was effected. The petitioner approached the Debts Recovery Tribunal for grant of interim order, which was ordered on 14.02.2022, wherein the petitioner was directed to pay a sum of Rs.60 lakhs, out of which Rs.30 lakhs was to be deposited on or before 14.03.2022. The petitioner had tendered the aforesaid amount by sending the cheque to the respondents. But, there was some delay and accordingly the petitioner moved an application before the Debts Recovery Tribunal to extend the time, which was orally entertained. Yet, finding the petitioner to be a defaulter to the interim order, the sale deed has been presented for registration. In view of the above, the petitioner had no other option but to file this writ petition to restrain the respondents from registering the sale deed during the pendency of the S.A.

3. We have considered the submissions made by the learned counsel for the petitioner and find that, in the pending S.A., the Debt Recovery Tribunal has passed an interim order on 14.02.2022 directing the petitioner to pay a sum of Rs.60 lakhs, out of which Rs.30 lakhs was to be paid on or before 14.03.2022 and the balance Rs.30 lakhs was to be paid on or before 11.04.2022. In case of default, it was made clear that the bank shall be at liberty to proceed further in the matter.

4. It is not in dispute that the petitioner could not deposit the first instalment of Rs.30 lakhs on or before 14.03.2022. However, it is alleged that extension was granted by the Tribunal orally on the application moved by the petitioner for extension of time for deposit of money.

5. We cannot accept the aforesaid statement and if at all the Presiding Officer of the Tribunal had allowed the extension orally and yet the sale deed was presented for registration, it is not clear as to what prevented the petitioner from approaching the same Presiding Officer to seek a restraint on the respondents from registering the sale deed. Thus, the statement of fact about oral extension is not acceptable to us.



6. In the light of the aforesaid and in view of the default committed by the petitioner in complying the order dated 14.02.2022 passed by the Debts Recovery Tribunal, we are of the view that the bank was having the liberty to proceed further and accordingly the sale was confirmed in favour of the auction purchaser and the document was presented for registration. Hence, no case has been made out by the petitioner to restrain the respondents from registering the sale deed.

7. Accordingly, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition in W.M.P.No.15096 of 2022 is also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kst

To:

1. The Authorised Officer
Grihashakti
Fullerton India Home Finance Co.Ltd.,
No.179, Krishnaswamy Mudaliyar Road
R.S.Puram, Opp.to Brookfield Mall
Coimbatore.
2. The Sub-Registrar,
Nallur, Tiruppur District.
3. The Inspector of Police
Nallur Police Station, Tiruppur.

+1cc to Mr.D.R.Arunkumar, Advocate, S.R.No.38122
+1cc to the Government Pleader, S.R.No.38804

W.P.No.15808 of 2022

AJS[co]
NSK/29/06/2022