



W.P.No.33419 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE PARESH UPADHYAY

W.P.No.33419 of 2022

K.Thirunavukkarasu

.. Petitioner

vs

1. Repco Home Finance Limited
Perambalur Branch
Represented by its
Branch Manager
D.No.111, Venkatesapuram
Trichy Main Road,
Perambalur – 621 212.

2. The Authorised Officer
Repco Home Finance Limited
Alexander Square
No.2,3rd Floor, Sardar Patel Road
Guindy,
Chennai – 600 032.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records relating to the notice issued by the 2nd respondent under Section 13(2) of the



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Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 in Ref No.RHFL/PLR/5104/2022/(10/73) dated 15.10.2022 and quash the same as null, void, illegal and arbitrary.

For the Petitioner : Mr.S.Subramanian

For the Respondents : Mr.A.Ilangovan
for respondent Nos.1 and 2

ORDER

K.Thirunavukkarasu, son of Kandasamy, a resident of No.126, Avvaiyar Street, Thuraimangalam, Perambalur, has filed this writ petition to quash the notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for brevity, "*the Act of 2002*"].

2. It is stated by the petitioner that the petitioner having obtained a housing loan of Rs.25 lakh from the first respondent on 14.3.2017 has been paying the monthly installments regularly. However, after some time, he was unable to continue to pay the



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monthly installments, as a result, his account was classified as NPA. It is also stated that on 11.2.2021, the petitioner has submitted a representation to the respondents to accept his proposal for pre-closure of the housing loan by one-time settlement. Since the respondents failed to act upon the representation of the petitioner, he has filed W.P.No.7265 of 2021 seeking a writ of mandamus to direct the first respondent to consider and dispose of his representation. The factum of filing of W.P.No.7265 of 2021 has been averred by the petitioner in paragraph 6 of the affidavit filed in support of the instant writ petition.

3. Learned counsel for the petitioner submitted that W.P.No.7265 of 2021 is pending consideration and while so, the second respondent issued notice under Section 13(2) of the Act of 2002 on 15.10.2022 demanding payment of the loan dues. Since the request for pre-closure of the loan is pending consideration, the second respondent ought not to have issued the impugned notice and, therefore, the same is liable to be set aside.



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4. We are unable to find any merits in the writ petition for the following two reasons. Firstly, Section 17(1) of the Act of 2002 says that any person, including the borrower, aggrieved by any of the measures referred to in sub-section (4) of Section 13 taken by the secured creditor or the Authorised Officer, may make an application before the Debts Recovery Tribunal having jurisdiction in the matter. When the petitioner has got an effective and alternative statutory remedy available before the Debts Recovery Tribunal, he has to avail of such remedy instead of approaching the High Court.

5. Secondly, when we posed a question as to what is the outstanding amount payable by the petitioner, learned counsel appearing for the petitioner is unable to answer our question. The aforesaid shows that the petitioner has deliberately concealed the facts in the writ petition. Therefore, this Court is not inclined to entertain the present writ petition.

6. The writ petition is dismissed. However, it is open to the petitioner to approach the jurisdictional Debts Recovery Tribunal for



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relief, if he is so advised. There will be no order as to costs.

Consequently, W.M.P.No.32856 of 2022 is closed.

(T.R., ACJ.) (P.U., J.)
13.12.2022

Index : Yes/No
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To:

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