



W.P.No.188 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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1.K.B.Anuradha
2.S.Varalakshmi
3.J.Anita Stephy
4.Jenifer
5.Ramachandran Pandian

.. Petitioners

Vs

1.M/s.Edelweiss Asset Reconstruction Company Ltd.,
Having its registered Office at
Edelweiss House, 1st Floor,
Off CST Road,
Kalina Mumbai-400 098
Trustee of the EARC Trust SC 401,
Through its Authorised Officer S.Srinivasan

2.M/s.Edelweiss Housing Finance Ltd.,
rep. by its Branch Manager,
Office at No.10 & 12, The Oval 3rd Floor,
Venkat Narayana Road, T.Nagar,
Chennai-600 017.

3.I.Suresh
4.I.Kumari
5.I.Ramesh
6.S.Savitha

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus forbearing respondents 1 and 2 from evicting the petitioners from their respective houses and two shops situated in Door No.35, North Mada Street, Madambakkam Main Road, Madambakkam, Chennai-600 126 for the period of six months.

For the Petitioners : Mr.C.Prakasam

ORDER

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

W.M.P.No.175 of 2023 filed to permit the petitioners to file the writ petition jointly is allowed, subject to payment of separate sets of court-fee by the petitioners within two weeks from the date of receipt of a copy of this order. In default of compliance, the order passed in the writ petition shall be applicable only to the first petitioner.

2. The petitioners, who are tenants under respondents 3 to 6 [who are the borrowers], have filed this writ petition directly before this court under Article 226 of the Constitution of India, without going before the Debts Recovery Tribunal by taking out an application under Section 17 of the Securitisation and



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Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for brevity, "the Act"].

3. Learned counsel for the petitioners submitted that the petitioners are third parties to the proceedings before the Debts Recovery Tribunal and they have filed this writ petition only for the limited purpose of getting three months' time to vacate the premises and handover the same to the secured creditor.

4. Section 17 of the Act clearly stipulates that any person aggrieved by the action initiated by the secured creditor under the provisions of the Act can take out an application under Section 17 of the Act before the Debts Recovery Tribunal. That apart, Section 17(4-A) of the Act makes it abundantly clear that any person, who claims any tenancy or leasehold rights upon the secured asset, can file an application before the Debts Recovery Tribunal which has the jurisdiction to examine what is the effect of lease or tenancy. Clause (ii) of Section 17(4-A) of the Act stipulates that if the Debts Recovery Tribunal is satisfied that the tenancy right or leasehold



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right claimed in secured asset falls within sub-clause (a) (b) (c) and (d) of Clause (i) of Section 17(4-A) of the Act, then notwithstanding anything to the contrary contained in any other law for the time being in force, the Debts Recovery Tribunal has the power to pass such order as it deems fit.

5. In view of the statutory prescription in Section 17 of the Act, we do not find any merit in the aforesaid submission made by learned counsel for the petitioners. However, it is made clear that if the petitioners file an application before the Debts Recovery Tribunal, it shall be considered on merits and in accordance with law.

With the aforesaid observation, the writ petition is dismissed. There will be no order as to costs. Consequently, W.M.P.No.176 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
06.01.2023

Index : No
Neutral Citation : No
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AND
D.BHARATHA CHAKRAVARTHY, J.

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