



W.P.No.10650 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.10650 of 2018

S.Meena

.. Petitioner

Vs.

1. The ARCIL

Rep. by its Managing Director
The Ruby, 10th Floor, No.29
Senapathi Bapath Marg
Dadar West, Mumbai – 28.

2. The Commissioner of Police

Veppery, Chennai.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus, calling for the records of all the loan transactions of the petitioner with the first respondent and to quash the order dated 03.03.2018 made by the Hon'ble Chief Metropolitan Magistrate, Allikulam in M.P.No.7724 of 2016 in Crl.M.P.No.805 of 2016 and consequently set aside the order made in Crl.M.P.No.805 of 2016 dated 05.03.2016 and direct the first respondent not to proceed against the petitioner based on the loan transaction with the first respondent as the matter is subjudice and the document dated 27.09.2010 "The Resolution Plan and Broad Terms and Conditions" relied upon by the first respondent has been impounded and declared as inadmissible in evidence due non stamping by the Senior Sub-Registrar Peenya, Bangalore.



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For the Petitioner : Mr.P.Munusamy
for Mr.P.Manikandan

For the Respondents : Mr.E.Om Prakash
Senior Counsel
for Mr.Chethan Sagar
for R1

Mr.P.Muthukumar
State Government Pleader
for R2

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.P.Munusamy, learned counsel appearing for Mr.P.Manikandan, learned counsel for the petitioner, Mr.E.Om Prakash, learned Senior Counsel appearing for Mr.Chethan Sagar, learned counsel for the first respondent and Mr.P.Muthukumar, learned State Government Pleader for the second respondent.

2. The petitioner is challenging the order passed by the Authority, thereby refusing to recall the order passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 .



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3. Learned counsel for the petitioner submits that, in fact, there are documents on record to show that the entire loan amount is repaid. The two properties are sold by the Bank. The amount has been realised pursuant to the orders of this Court and a sum of Rs.100 lakhs (Rs. One Crore) is also deposited by the petitioner. The Hospital is running in the said premises. The action of the first respondent / ARCIL is erroneous and illegal.

4. Learned Senior Counsel appearing for the first respondent submits that the petitioner is abusing the process of law. Initially, the petitioner set-up a tenant, who had challenged the auction under Section 14 of the Act by filing a Securitisation Application before the Debts Recovery Tribunal. The same was dismissed with cost of Rs.25,000/- (Rs. Twenty Five Thousand). It was dismissed by the Debts Recovery Tribunal holding that the said tenant is set-up by the mortgagor. It is further submitted that the amount claimed by the respondent is as per the decree of the Debts Recovery Tribunal, passed in the order dated 31.10.2017 in O.A.No.288 of 2014. Amount of



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Rs.33,74,74,361/- (Rs. Thirty Three Crores Seventy Four Lakhs Seventy Four Thousand Three Hundred and Sixty One) with further interest, as detailed in paragraph 10(a) of the said order, is due and payable by the petitioner. Learned Senior Counsel further submits that only one property is sold.

5. We have considered the submissions of the parties.

6. It appears that this Court, while passing the *ad interim* order, was impressed by the fact that the petitioner is running a Hospital and as such, interim protection was granted. The factum of the petitioner setting-up a tenant and the alleged tenant assailing the order under Section 14 was not brought before this Court. The Recovery Certificate issued by the Debts Recovery Tribunal under the order dated 31.10.2017 in O.A.No.288 of 2014 was also not brought to the notice of this Court. Moreover, the order under Section 14 can be assailed before the Debts Recovery Tribunal.



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7. For all the aforesaid reasons, we are not inclined to entertain the present writ petition. The writ petition, as such, is disposed of. If at all the petitioner has any remedy available under law, then it is for the petitioner to avail the same, as permissible under law.

8. For a period of ten days from today (i.e., 18.07.2023), the first respondent may not proceed further. However, after the lapse of ten days, the said protection would come to an end.

9. There will be no order as to costs. Consequently, W.M.P.Nos.12593, 12594 & 33094 of 2018 are closed.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No

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To

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Veppery, Chennai.

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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESSAVALU, J.

(drm)

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