



W.P.No.7656 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.7656 of 2023

Moon Light

Rep. by its Proprietor G.Lakshminarayanan

No.1/8, Manikandapuram 4th Street

Thirumullaivoil, Chennai 600 062.

.. Petitioner

Vs.

1. IIFL Home Finance Limited

Formerly known as

M/s. India Infoline Housing Finance Limited

Rep. by its Authorised Officer Chandramouli

Branch Office at 9th Floor, Basconfutura

No.10/1, Venkatanarayan Road

T.Nagar, Chennai 600 017.

2. E.Dinesh Verma

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for records pertaining to the issue of impugned sale certificate dated 14.02.2023 and quash the same relating to the property namely bearing Door No.1/8, Plot No.4 of an extent of 2340 sq.ft. comprised in survey No.573, Avadi Town Survey Field Register Extract RPT No.8812/12 as per T.S.No.16,



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Block No.83, Ward D, Thirumullaivoil Village, MTH Road, Manikandapuram, Thirumullaivoil, Ambattur Taluk, Now Avadi Taluk, Thiruvallur District and direct the 1st respondent to issue fresh notice of demand in Loan Account No.735407 to the legal heirs of the deceased co-borrowers for repayment of the loan amount.

For the Petitioner : Mr.S.Sadasharam

For the Respondents : Mr.V.Balasubramani
for Respondent-1

Mrs.D.Malarvizhi
for Respondent-2

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.S.Sadasharam, learned counsel for the petitioner, Mr.V.Balasubramani, learned counsel for the first respondent and Mrs.D.Malarvizhi, learned counsel for the second respondent.

2. The petitioner challenges the sale certificate pursuant to an auction under the provisions of 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 the petitioner, after the sale has been conducted, has deposited an amount of Rs.68.00 lakh (Rupees sixty eight lakh only) on 28.03.2023, i.e. the entire amount of sale. The petitioner is entitled to redemption of mortgage.

4. The petitioner claims to be the legal heir of one of the co-mortgagors, namely Govindarajan. Learned counsel for the petitioner submits that the said Govindarajan died on 31.12.2022 and the auction is conducted on 16.01.2023. On the date of auction, the said Govindarajan had died. Two other mortgagors have also passed away before the date of auction. Learned counsel further submits that no notice was served upon the legal heirs of the deceased Govindarajan.

5. It is further submitted that Rules 8 and 9 of the Security Interest (Enforcement) Rules, 2002 have been violated. The respondents have not made clear as to whether the auction purchaser had deposited 25% amount on the same date. No dates are given in the sale certificate of the deposit of the amount. The notice has to be



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6. Learned counsel for the first respondent submits that the notice has been served on the borrowers on 08.12.2023. An affidavit has been executed even by the present petitioner agreeing for sale of the property. Even Mr.Lakshminarayanan has signed the same. So also, Mr.Govindarajan, father of the petitioner. The notice of sale was served upon the father of the petitioner, namely Govindarajan, who was a co-mortgagor.

7. It appears that the notice has been served upon Govindarajan, through whom the petitioner claims, on 08.12.2022, regarding the sale of the property. Govindarajan, Lakshminarayanan, so also the present petitioner have executed an affidavit in favour of the bank agreeing for the sale of the property to the prospective buyer. The said fact is not stated in the petition.



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8. The sale certificate has been issued within one month of the auction sale. The entire amount of consideration has been paid within one month of the auction sale by the auction purchaser. Rules 8 and 9 of the Rules appear to have been complied with.

9. The petitioner lost his right of redemption after the issuance of sale notice in view of the judgment of the Apex Court in *Civil Appeal Nos.5542 – 5543 of 2023, dated 21.09.2023 (Celir LLP v. Bafna Motors (Mumbai) Pvt. Ltd. and others)*.

10. In the light of that, this Court cannot come to the aid of the petitioner. The writ petition, as such, stands disposed of. In case the petitioner has deposited the amount, the petitioner is entitled to withdraw the same. There shall be no order as to costs. Consequently, W.M.P.Nos.7806, 7809 and 17499 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No



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