



W.P.No.20222 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.20222 of 2024

and

W.M.P.No.22131 of 2024

LakshmananMuniyandi

... Petitioner

Vs.

- 1.The Authorised Officer,
Indiabulls Housing Finance Limited,
No.20, Apex Chamber, 1st Floor,
Sri Thyagaraya Road, T.Nagar,
Chennai – 600 017.
- 2.The Authorised Officer,
CFM Asset Reconstruction Pvt. Ltd.,
No.001, Manito Commanders Marbel,
Duo Marvel Layout, Ananthapura Road,
Yelahanka, Bangaluru – 560 006.
- 3.Jayalakshmi



W.P.No.20222 of 2024

WEB COPY

4. The Registrar,
Debt Recovery Appellate Court,
Addl. Building, 7th Floor, Sastri Bhavan,
Nungambakkam, Chennai – 600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus for a direction for being the 2nd respondent from in anyway interfering with the possession of the property at Plot No.50 and plot No.51, 52 situated at 4th street, Abirami Avenue, Kodungaiyur, presently comprised in SA.No. 179/3A1C, previously comprised in and forming part of S.No.176/3, at Kodungaiyur village, Tondiarpet Taluk, Chennai District in any manner by way of dispossessing pending disposal of IA D.NO.1070 of 2024 in AIR SA NO.1068 of 2024 pending on the file of Debt Recovery Appellate Tribunal at Chennai waiver of Pre-deposit under section 18(1) of the SARFAESI Act IA D.No. 1070 of 2024 and stay petition under section 18(1) of the SARFAESI Act to stay petition in IA.D.No. 1069 of 2024 vide the interim order dated 26.06.2024 in IA.No. 1215 of 2024 in SA No. 56 of 2024.

For Petitioner : Mr.D.Durairaj



W.P.No.20222 of 2024

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed for issuing a direction to prevent the 2nd respondent from in any way interfering with the possession of the petitioner at Plot No.50 and Plot Nos.51 & 52, situated at 4th Street, Abirami Avenue, Kodungaiyur, presently comprised in S..A.No.179/3A1C, previously comprised in and forming part of S.No.176/3, at Kodungaiyur village, Tondiarpet Taluk, Chennai District, pending disposal of the I.A.D.No.1070 of 2024 in AIR SA.No.1068 of 2024 on the file of the Debt Recovery Appellate Tribunal, Chennai, for waiver of pre-deposit.

2.It is not in dispute that the respondent Bank had issued a demand notice even in 2019, demanding a sum of Rs.3,31,50,000/- which is the liability as on 11.02.2019. The respondent Bank initiated action under Section 14 of the SARFAESI Act and it is admitted that the learned Chief Judicial Magistrate, Egmore, Chennai, by order dated 18.02.2020, directed possession. However, for reasons unknown, the Advocate Commissioner



W.P.No.20222 of 2024

was appointed, according to the petitioner, only on 05.01.2024. Thereafter, the petitioner filed a SARFAESI application in S.A.No.56 of 2024 before the Debt Recovery Tribunal-II, Chennai, on 08.01.2024 and an interim order was also passed subject to conditions. The petitioner, who did not comply with the conditional order, filed an interlocutory application in I.A.No.1215 of 2024 in S.A.No.56 of 2024 to direct the respondent to receive the amount and to maintain status *quo* pending disposal of the SARFAESI Application. The Tribunal dismissed the said application. Therefore, the petitioner filed an appeal in AIR SA No.1068 of 2024 before the Debt Recovery Appellate Tribunal at Chennai, challenging the interlocutory order passed by the Debt Recovery Tribunal-II, Chennai, in I.A.No.1215 of 2024 in S.A.No.56 of 2024.

3.Since the petitioner has approached the Debt Recovery Appellate Tribunal and further appeal is pending, the petitioner is not entitled to seek any relief before this Court. This Court does not find any extraordinary circumstance to entertain this writ petition which is only for the purpose of



W.P.No.20222 of 2024

granting interim order. Therefore, leaving it open to the petitioner to prosecute his appeal before the Debt Recovery Appellate Tribunal, this writ petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

4.At this juncture, learned counsel for the petitioner states that the petitioner is prepared to deposit a sum of Rs.1,40,00,000/- (Rupees One Crore and Forty Lakhs only) to show his *bona fides*. The petitioner's *bona fide* request for One Time Settlement can be considered by the Court in appropriate proceedings when the petitioner challenges the sale, as the petitioner has admitted that the Secured Asset had been sold in auction. If the sale is set aside, it may be open to the petitioner to approach the Bank for OTS.

(S.S.S.R., J.) (N.S., J.)
22.07.2024

mkn

Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No



WEB COPY



W.P.No.20222 of 2024

S.S. SUNDAR, J.
and
N. SENTHILKUMAR, J.

mkn

To

The Registrar,
Debt Recovery Appellate Tribunal,
Addl. Building, 7th Floor, Sastri Bhavan,
Nungambakkam, Chennai – 600 006.

W.P.No.20222 of 2024



WEB COPY



W.P.No.20222 of 2024

22.07.2024