

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.P. No. 20996 of 2014
& M.P.No.1 of 2014

Rajni Nanjan

..... Petitioner

vs.

1. State Bank of India
Rep. by its Branch Manager
Agriculture Development Branch
Sathyamangalam
Erode District.
2. M. Kanaga Jothi
3. S.M.Sampath Kumar
4. S.M. Ramesh Kumar
5. S.M. Ravikumar
6. S.M. Rajmohan

7. Bangaru Ammal

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records pertaining to I.A.No.1559 of 2010 in T.A.No.376 of 2008 on the file of the Debts Recovery Tribunal, Madurai dated 25.03.2013 and quash the same as illegal, incompetent and ultravires and consequently direct the first respondent Bank to receive the loan due amount payable by the respondents 2 to 7 from the petitioner and to deposit the original title deeds pertaining to the said loan in O.S.No.207 of 2008 on the file of the Additional District Judge cum Fast Track No.III, Gobichettipalayam.

(Prayer amended as per order dated 13.08.2014 in M.P.No.2/2014)

For petitioner : Mr. L. Chandrakumar
for Mr.R. Jayaprakash

For respondents : Mr. S. Sethuraman for R.1
Mr.A. Thiagarajan for RR 4 & 5
RR 3 & 6 - Not ready
R7 - Expired

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

This petition is filed seeking to quash the order of the Debts Recovery Tribunal, Madurai, dated 25.3.2013 and to direct the first respondent Bank to receive the loan due amount payable by the respondents 2 to 7 from the petitioner and to deposit the original title deeds pertaining to the said loan in O.S.No.207 of 2008 on the file of the Additional District Judge cum Fast Track No.III, Gobichettipalayam.

2. The above said suit in O.S.No. 207 of 2008 was filed by the agreement holder seeking for a decree of specific performance wherein, the petitioner has impleaded the respondents herein as defendants.

3. The Bank initiated proceedings before the Debts Recovery Tribunal against the borrowers from whom the petitioner agreed to purchase the property. The petitioner filed an application in I.A.No.1559 of 2010 in T.A.No.376 of 2008 to implead her as a party to the proceedings.

4. The Debts Recovery Tribunal found that the petitioner was a total stranger and as such she is neither a necessary nor a proper party for an effective adjudication of the matter.

5. The petitioner is only an agreement holder. She has already filed a suit for specific performance. The question of impleading the petitioner would arise only in case a decree is passed in her favour by the Civil Court in O.S.No.207 of 2008. The Debts Recovery Tribunal was therefore perfectly correct in dismissing the application filed by the petitioner. We do not find any error or illegality in the said order warring interference by exercising the power of judicial review.

6. The petitioner wanted a direction to the first respondent to receive the loan amount payable by respondents 2 to 7 from her and deposit the original title deeds in O.S.NO.207 of 2008. No such direction could be issued in the subject case in view of the pendency of the Civil Suit. The Civil Court is

yet to grant a decree in favour of the petitioner. Since the suit in question is one for specific performance, the petitioner should plead and prove that she has been ready and willing to perform her part of the contract. The question of permitting the petitioner to deposit the loan amount would arise only in case a decree is passed in her favour. Similarly, there is no question of directing the Bank to deposit the original title deeds before the Civil Court in view of the pendency of the proceedings in T.A.No.376 of 2008 before the Debts Recovery Tribunal.

7. The learned counsel for the petitioner seeks liberty to file an appropriate application before the trial Court. There is no question of giving liberty in a matter of this nature. It is always open to the petitioner to take recourse to the appropriate forum or make an application in the pending suit, which would be decided on merits and as per law.

8. This writ petition is disposed of accordingly. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

The Branch Manager,
State Bank Of India,
Agriculture Development Branch,
Sathyamangalam, Erode.

+1 cc to Mr.A.Thiyagarajan, Advocate (sr.56441)

+1 cc to Mr.S.Sethuraman, Advocate (sr.56452)

+1 cc to Mr.Jayaprakash, Advocate (sr.56880)

svi(co)
cp 28/10/2015

W.P. No.20996 of 2014

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