

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2015

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P. No.4015 of 2013 &

M.P.No.1 of 2013

P.L.Muruganantham

... Petitioner

v.

1.Coimbatore District Central Co-operative Bank,
Rep. By its Co-operative Sub-Registrar,
Coimbatore - 18.

2.Coimbatore district Central Co-operative Bank,
Rep. By its Branch Manager,
Kamarajar Road,
Mahalingapuram Post,
Pollachi, Tamil Nadu.

3.D.Suresh

4.R.Senthamarai

5.R.Kathirvel
(Impleaded as per order of this court
dated 10.2.2014 in M.P.No.1/2014 in
W.P.No.4015/2013

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus to direct the respondents 1 and 2 to receive the amount due payable under the mortgage, created by the respondents 3 and 4, of the property bearing Door No.2/197A, Ram Nagar, Chinnapalayam Village, Pollachi Taluk - 642 001.

For petitioner : Mr.K.P.Gopalakrishnan

For Respondents : Mr.L.P.Shanmugasundaram
Spl. Govt. Pleader (Co-Operation)

Mr.C.Veeraragavan - for R2

Mr.P.S.Kothandaraman - for R3

Not ready in notice - for R4

Mr.Palanisaevaraj - for R5

ORDER

The petitioner has filed the above writ petition to issue a writ of mandamus to direct the respondents 1 and 2 to receive the amount payable under the mortgage created by the respondents 3 and 4 in respect of the property bearing Door No.2/197A, Ram Nagar, Chinnapalayam Village, Pollachi Taluk - 642 001.

2. It is the case of the petitioner that he entered into a sale agreement with the respondents 3 and 4 on 21.12.2005 to purchase the said property for a sale consideration of Rs.6,15,000/-. Under the said agreement, the respondents 3 and 4 agreed that the petitioner can make a payment of Rs.1,40,000/- to the second respondent Bank. According to the petitioner, he paid a sum of Rs.1,45,000/- to the second respondent bank on behalf of the respondents 3 and 4 and obtained receipt for the same. Since the respondents 3 and 4 did not honour the sale agreement, the petitioner filed a suit in O.S. No.147 of 2010 for specific performance and the said suit was decreed on 24.02.2011. In the mean time, the respondents 1 and 2 attempted to bring the property for sale for the alleged amount due of the respondents 3 and 4. In these circumstances, the petitioner has filed the above writ petition.

3. When the matter is taken up for hearing, learned counsel appearing for the respondents submitted that the property was sold in auction and the 5th respondent was the successful bidder for a total sale consideration of Rs.25,90,000/-.

4. According to the 5th respondent, he had paid the entire sale consideration.

5. Since the property had been sold in court auction in E.P.No.134/2012, the relief sought for in the writ petition has become infructuous.

6. Since the writ petitioner has obtained a decree for specific performance, it is open to him to execute the decree in accordance with law.

7. In these circumstances, I am of the considered view that nothing survives for adjudication in this writ petition. Hence, the writ petition is dismissed as infructuous. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

Dated:16.2.15

True Copy

To

1.The Co-operative Sub-Registrar,
Coimbatore District Central Co-operative Bank,
Coimbatore - 18.

2.The Branch Manager,
Coimbatore District Central Co-operative Bank,
Kamarajar Road,
Mahalingapuram Post,
Pollachi, Tamil Nadu.

+1 cc to M/s.P.S.Kothandaraman, Advocate,SR.7212

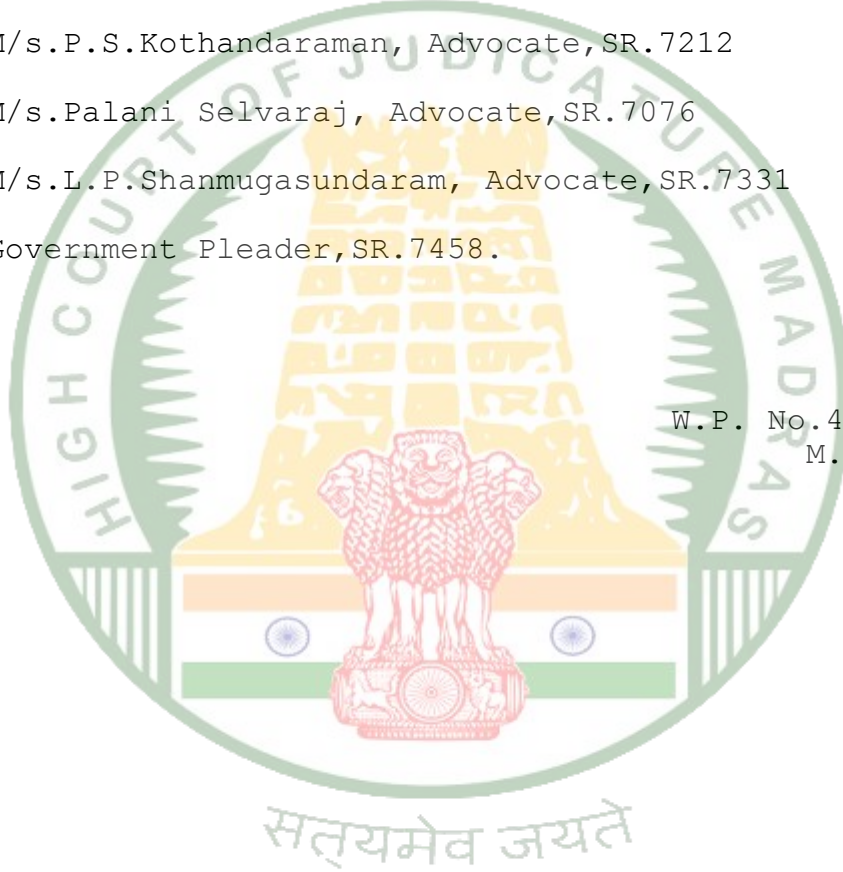
+1 cc to M/s.Palani Selvaraj, Advocate,SR.7076

+1 cc to M/s.L.P.Shanmugasundaram, Advocate,SR.7331

+1 cc to Government Pleader,SR.7458.

ala(co)
krd 16/2

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