

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.2894/2015 & MP.Nos.1&2/2015

Valarmathi

..Petitioner

Versus

1.The Superintendent of Police
Villupuram District, Villupuram.

2.The Deputy Superintendent of Police
Villupuram District, Villupuram.

3.The Inspector of Police
Prammadesam Police Station
Tindivanam Taluk, Villupuram.

4.The Authorised Officer
M/s.HDFC Bank Ltd.,
Having office at No.110,
Nelson Manickam Road, 4th Floor
Aminjikarai, Chennai 600029.

5.The Authorised Recovery Agent
M/s.HDFC Bank Ltd.,
Retail Loan Service Centre
Nos.4 and 5, Vallalar Salai,
2nd Floor, Abhirami Plaza,
45 Feet Road, Vallalar Salai,
Pondicherry 605011.

..Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the 1st respondent police to conduct enquiry against the 3rd respondent for not registering the petitioner's complaint dated 28.01.2015 and consequently direct the 4th and 5th respondents to release and handover the petitioner's business equipment viz Hammer Machine HM-1180, bearing Engine No.A1702A333-Y9729 and Chassis No. A1702A333-Y9729 bearing Registration No.84087298 [JCBJS.140] to the petitioner herein.

For Petitioner : Mr.M.Venkadesh
For RR 1 to 3 : Mr.R.Vijayakumar
Additional Government Pleader

ORDER

Heard Mr.M.Venkadeshan, learned counsel for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents 1 to 3 and with their consent, the writ petition is disposed of at the admission stage itself.

2.The petitioner seeks for issuance of a writ of mandamus to direct the 1st respondent police to conduct enquiry against the 3rd respondent for not registering the petitioner's complaint dated 28.01.2015 and to direct the respondents 4 and 5 to release the business equipment of the petitioner, viz.. Hammer Machine.

3.Firstly, it has to be pointed out that the prayer sought for by the petitioner in this writ petition is thoroughly misconceived and no writ of mandamus as sought for, can be issued. It is settled legal position that if the respondent police has not registered the complaint, then the petitioner has to resort to the remedies available under the Code of Criminal Procedure and he cannot by-pass those remedies and seek for a writ of mandamus. Therefore, the first limb of the prayer stands rejected.

4.Insofar as the second limb of the prayer, it is directed against the respondents 4 and 5 who are admittedly private Bank and if there is any dispute with regard to the loan transaction between the petitioner and the respondents 4 and 5/Bank, then the petitioner has to necessarily sort out the issue in accordance with the terms and conditions of the Hire Purchase Agreement.

5.In the light of the above facts, the prayer sought for by the petitioner in this writ petition cannot be granted. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

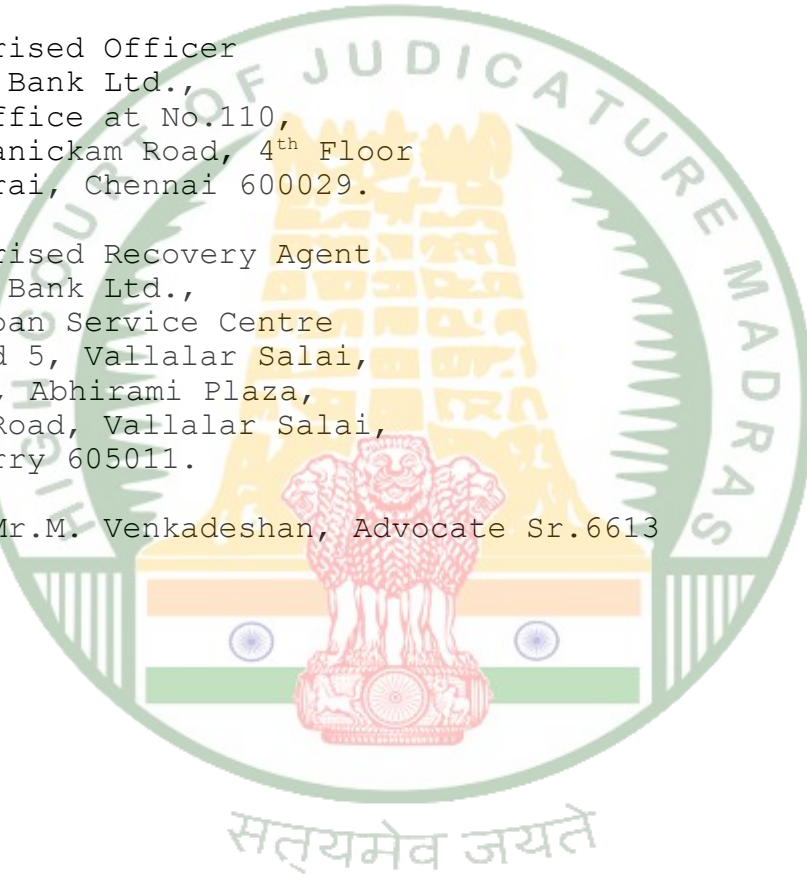
To

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+ 1 c c to Mr.M. Venkadeshan, Advocate Sr.6613

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CA(CO)
EU 10.02.15



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