

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE DR.JUSTICE P. DEVADASS

W.P. No.35450 of 2015

S. Riyaz Ahamed

Petitioner

vs.

1 The Chief Metropolitan Magistrate,
Egmore, Chennai.8.

2 United Bank of India
No.11 Hemant Basu Sarani, Kolkotta Branch
Off.: 141 New No.66 Kodambakkam High Road ,
Chennai-34 Repd. by its Chief
Manager/Authorised Officer.

3 M/s.Rayan & Rayan
Repd. by its Proprietor T.N.Kandhavel,
No.78 Triplicane High Road,
Chennai-600 005.

4 T.N.Kandhavel

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records comprised in Crl.M.P.No. 5542 of 2013 dated 07.02.2014 on the file of the 1st respondent, quash the same and consequently forbear the 2nd respondent their men servants or agents from interfering with the physical possession of the petitioner or in any manner evicting the petitioner from the petitioner from the property situate in Ground Floor of Door No.78 Old No.325/2 Triplicane High Road Triplicane Chennai-600 005 except by due process of law.

For petitioner

Mr. R. Karthikeyan

For respondents

Mr. F.B. Benjamin George -R2

ORDER
(delivered by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsel for the petitioner and the learned counsel for the second respondent, this writ petition is taken up for final disposal.

2 Learned counsel for the petitioner fairly submits that the petitioner was inducted in the premises in the month of July, 2005 on a monthly rent of Rs.2,700/- for a period of 2 years on the basis of an unregistered lease agreement dated 01 July 2005. After the expiry of the said lease, fresh lease was executed on 01 January 2010 for a period of three years. Thereafter, one more lease deed was executed on 20 January 2010 for a period of three years. All these lease agreements were unregistered. The petitioner is in physical possession of the property in question. The Chief Metropolitan Magistrate, Chennai, vide order dated 07 February 2014 in CrI.M.P.No.5542 of 2013 filed by the second respondent-Bank, without hearing the petitioner herein, though he was a party-respondent in the said criminal proceedings, appointed an Advocate Commissioner to take possession of the concerned secured asset, after taking inventory, if necessary, with the assistance of the Station House Officer, D1 Triplicane Police Station, Chennai and to hand over the same to the petitioner.

3 The identical issue as to whether a person, who has entered into occupation and possession of the premises on the basis of the unregistered documents, is entitled to protection under the SARFEASI Act, came into consideration in V. Juvalamukhi vs. The District Magistrate-cum-District Collector, Collectorate Building, Coimbatore and 3 others¹, wherein, it was held by this very Bench that the possession by lease holder/tenant on the basis of the unregistered lease deed is not a valid possession and as such, he is not entitled to any protection. Thus, this writ petition is liable to be dismissed.

4 However, the learned counsel appearing for the second respondent/ United Bank of India submits that as and when the petitioner approaches the Bank, the Bank will facilitate for removal of the goods lying in the premises in question after making proper inventory of the same and it is ordered accordingly.

The writ petition stands dismissed reserving liberty to the petitioner to approach the second respondent-Bank for

1 W.P.No.27802 of 2015

removal of the goods. Costs made easy. Connected Miscellaneous
Petitions are closed.

Sd/
ASSISTANT REGISTRAR (CS-III)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

ra

To

- 1 The Chief Metropolitan Magistrate,
Egmore, Chennai.8.
 - 2 United Bank of India
No.11 Hemant Basu Sarani, Kolkotta Branch
Off.: 141 New No.66 Kodambakkam High Road ,
Chennai-34 Repd. by its Chief
Manager/Authorised Officer.
- +1 CC to MR.R. Karthikeyan Advocate. SR.NO.67495
+1 CC to MR.F.B. Benjamin George Advocate. SR.NO.67330
+1 CC to Govt.Pleader. SR.NO. 67829

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CO-PUR
JD 05/01/2016

सत्यमेव जयते

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