

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. No.8561 of 2015

and

M.P. Nos.1 & 2 of 2015

Murugappa Krishnan
S/o Late L. Krishnan
No.90, New England Avenue Apartments
No.6, Summit NJ
07901 - 18000, USA
represented by his Power Agent S. Annamalai
S/o P.L. Sambandham
No.25/10-B
East Ellaiamman Koil Street
Dr. Radhakrishnan Nagar
Tiruvotriyur, Chennai 600 019

... Petitioner

vs.

1. The Assets Reconstruction Company (India) Ltd.
(Arms Division)
represented by its Authorised Officer
Mr. Mohammad Ibrahim
having office at No.715, VII Floor, Phase II
Spencer Plaza
Anna Salai, Chennai 600 002

2. The Chief Metropolitan Magistrate Court
Egmore
Chennai 600 008

3. S. Badrinath

... Respondents

WEB COPY

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the second respondent in his proceedings in Crl.M.P. No.3377 of 2014 and to quash the order dated 17.06.2014 and consequently, directing the first respondent herein to restore possession of the property, viz., Flat S-2 in II Floor, Sivasakthi Vinayagar Apartments of an extent of 1,404 sq. ft. bearing Door Nos.29-32, East Mada Street, Thiruvanmiyur, Chennai 600 041, to the petitioner herein.

For petitioner : Mr. M. Balasubramanian

ORDER

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

The learned counsel for the petitioner seeks permission of this Court to withdraw the writ petition with liberty to approach the Debts Recovery Tribunal, challenging the order passed by the Chief Metropolitan Magistrate, Egmore, Chennai-8, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act") and he has also made an endorsement to the following effect:

"Liberty may be given to the petitioner to approach the DRT, challenging the order passed by the CMM under Section 14 of the SARFAESI Act. Hence, the writ petition is withdrawn as not pressed."

2. The Supreme Court, while examining the maintainability of a writ petition against the order passed under Section 14 of the SARFAESI Act, in Kanaiyalal Lalchand Sachdev and Others vs. State of Maharashtra and others¹, held that if the petitioner is aggrieved by an order passed under Section 14 of the SARFAESI Act, the proper remedy will be approaching the Debts Recovery Tribunal under the provisions of the SARFAESI Act.

¹ (2011) 2 SCC 782

3. In view of the foregoing, this writ petition is dismissed as withdrawn, with liberty, as aforesaid, if so advised. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad

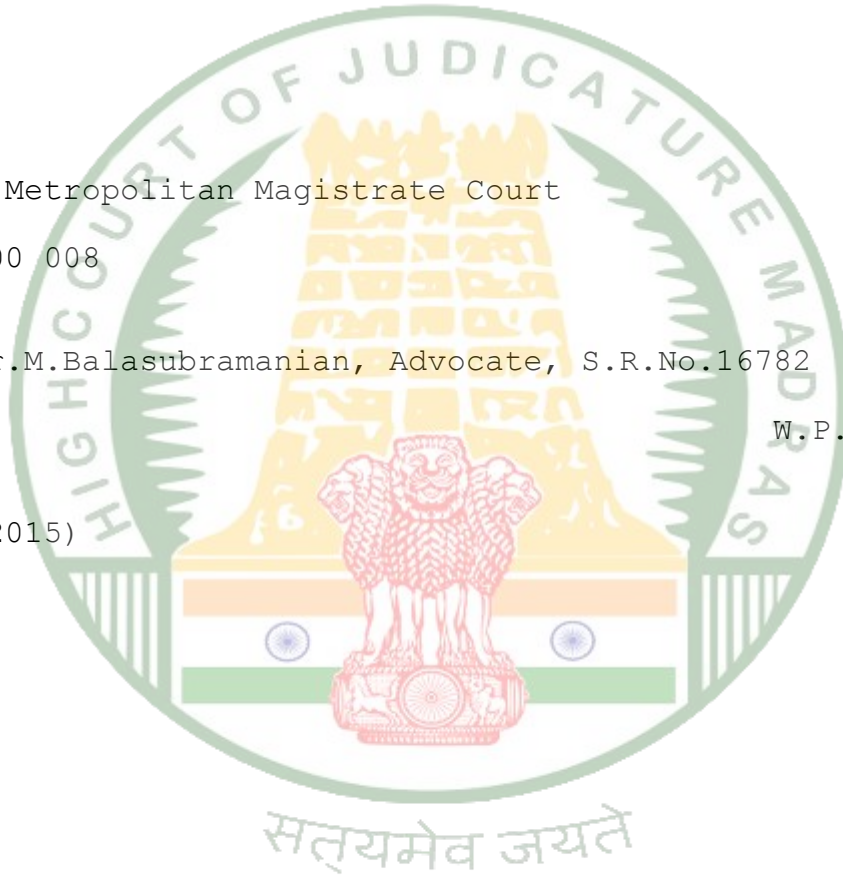
To

The Chief Metropolitan Magistrate Court
Egmore
Chennai 600 008

+1cc to Mr.M.Balasubramanian, Advocate, S.R.No.16782

W.P. No.8561 of 2015

TS (CO)
CA(06/04/2015)



WEB COPY