

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2015

CORAM

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Mr. JUSTICE M.VENUGOPAL

W.P.No.29559 of 2013
and
M.P.Nos.1 and 2 of 2013

M.Thangaraj ... Petitioner

Vs.

The Authorized Officer,
Bank of Baroda, SME Branch,
Avinashi Road, Tirupur. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the Chief Judicial Magistrate, Tirupur, pertaining to the order passed in C.M.P.No.1 of 2013 dated 08.02.2013 and to quash the same and direct the respondent to restore the possession of his property at No.1/525, Periya Thottam, 63, Velampalayam, Palladam Taluk, Tirupur District, comprised in S.F.No.35, S.F.No.36/4b, S.F.No.39/2 and S.F.No.40/2, measuring 8.22 acres of agricultural lands morefully described in the schedule hereunder to the petitioner.

For Petitioner .. Mr.K.Alakendran

For Respondents .. Mr.S.Pandurangan

ORDER

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

Questioning the validity and legality of the order dated 08.02.2013 passed by the learned Chief Judicial Magistrate, Tiruppur in C.M.P.No.1 of 2013 on the ground that the learned Chief Judicial Magistrate is not competent to entertain the application under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI Act'), the petitioner has filed the present writ petition.

2.It is contended that the father of the petitioner earlier approached this Court by filing W.P. No.21358 of 2013, which was dismissed on 12.08.2013. According to the petitioner, he being the son and shareholder in the property in question, is competent to agitate the same issue again before this Court as the order passed by the learned Chief Judicial Magistrate was not in accordance with law.

3.Learned counsel for the respondent Bank submits that the legality and validity of the order passed by the learned Chief Judicial Magistrate came up for consideration before this Court in W.P.No.21358 of 2013 and the same was dismissed on 12.08.2013. Thus, the challenge to the same order passed by the learned Chief Judicial Magistrate is not maintainable, at the instance of any other person viz., the shareholder of the property in question.

4.We have examined all the facts of the case. The legality and validity of the order was under unsuccessful judicial review before this Court in W.P.No.21358 of 2013. The judicial propriety and discipline require that the same issue cannot be reconsidered by co-ordinate Division Bench. Whether the petition is filed by father or son, it does not make any difference as the validity of the order sought to be impugned passed by the learned Chief Judicial Magistrate, after examination, was upheld by the Division Bench of this Court. Accordingly, we have no other option except to dismiss the petition in the light of the order dated 12.08.2013 passed by the Division Bench of this Court in W.P.No.21358 of 2013. However, liberty is reserved to the petitioner to take recourse to the appropriate forum, as provided under the provisions of law, in respect of the dispute between the bank and the petitioner.

5.In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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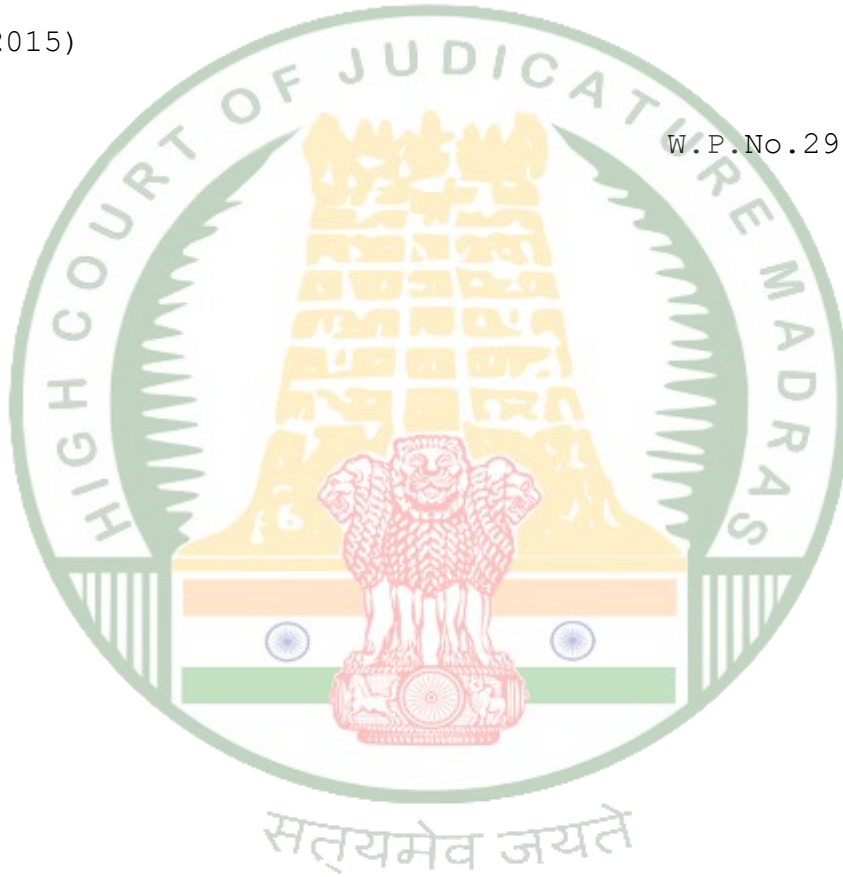
1. The Authorised Officer, Bank of Baroda,
SME Branch, Avinashi Road, Tiruppur.

+1cc to Mr.S. Pandurangan, Advocate, S.R.No.27868

+1cc to Mr.K. Alakendran, Advocate, S.R.No.28007

SV(CO)
EU(30/06/2015)

W.P.No.29559 of 2013



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