

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM:

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Mr. JUSTICE V. BHARATHIDASAN

W.P. No.14378 of 2016 and W.M.P. No.12569 of 2016

P. Veeramani

Petitioner

vs.

1 The Authorised Officer
CAN Fin Homes Ltd.
No.52, I Floor, Raj Kamal Complex
Gandhi Road
West Tambaram
Chennai 600 045

2 David Raj

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to follow due process of law while evicting the petitioner from the property bearing Door No.4-A, Chola mandalam Devi Nagar, II Street, Injambakkam, E.C.R. Road, Chennai 600 115 measuring 1,495 sq. ft. with 748 of UDS comprised in Survey Nos.124/7 and 124/8, patta no.2666, as per patta new Suvey No.124/8A1C, Injambakkam Village, Saidapet Taluk, Chengalpattu District, now Tambaram Taluk, Kancheepuram District.

For petitioner Mr. S.T. Raja
for Ms. G.S. Dhanalakshmi

ORDER

(delivered by SATISH K.AGNIHOTRI, J.)

Notice to the respondents is dispensed with at this stage, inasmuch as no order prejudicial to their interest is passed in this writ petition. Thus, with the consent of the learned counsel for the petitioner, the writ petition is taken up for final disposal at the admission stage itself.

2 This writ petition is filed seeking a writ of mandamus

directing the first respondent to follow due process of law, while evicting the petitioner from the property bearing Door No.4-A, Cholamandalam Devi Nagar, II Street, Injambakkam, E.C.R. Road, Chennai 600 115.

3 According to the petitioner, he was inducted into the premises in question, which is a secured asset, before the same was declared as a Non Performing Asset by the first respondent financial institution. Thus, the petitioner is entitled to protection under the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, inasmuch as he was inducted into the premises on execution of a proper lease agreement.

4 The learned counsel for the petitioner submits that the petitioner was inducted into the premises in question on the basis of a lease agreement dated 09 February 2015 before issuance of demand notice dated 14 August 2015 under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner has also made a representation to the first respondent to that effect on 15 October 2015. Thus, a direction be issued to the first respondent not to evict the petitioner de hors the provisions of law.

5 We have examined the entire facts of the case, as posited by the petitioner.

6 If demand notice has been issued aftermath the induction of the petitioner into the premises in question on the basis of a valid lease, the petitioner is certainly entitled to protection, as has been held by the Supreme Court in Harshad Govardhan Sondagar vs. International Assets Reconstruction Company Ltd. and Others¹ and Vishal N. Kalsaria vs. Bank of India and Others². Accordingly, no steps shall be taken by the first respondent financial institution, without affording an opportunity of hearing to the petitioner and de hors the provisions of law.

The writ petition stands disposed of with the above observation. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

1 (2014) 6 SCC 1

2 2016 (1) Scale 472

cad

To

The Authorised Officer
CAN Fin Homes Ltd.
No.52, I Floor, Raj Kamal Complex
Gandhi Road
West Tambaram
Chennai 600 045

+1 cc to Ms.G.S.Dhanalakshmi, Advocate, sr.24671

W.P. No.14378 of 2016

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kra 27.04.2016



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