

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2016

CORAM:

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

W.P. No. 31441 of 2015

1. M/s. Beenaa Exporters,
rep. By its Partners,
Mr. M. Sakthivel Raaju,
Having office at No.57/2 Anna Street,
Mahalakshmi Nagar,
15 Velampalayam,
Tirupur 641 603.
 2. Mr. M. Sakthivel Raaju
 3. Mrs. D. Nagarathinam
- Petitioners

vs.

1. The Branch Manager,
Bank of India, SME Branch,
No. 1(3) T.S. Arcade Park Avenue,
Kumar Nagar, Tiruppur -3.
 2. The Assistant General Manager,
Bank of India, Coimbatore Zone,
Star House, 324 Oppanakara Street,
Coimbatore 641 001.
- Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respondents to execute the Cancellation of Mortgage Deed in Doc. No.4473/ 2009, dated 14.10.2009 as well as Supplemental Mortgage Deed in Doc.4630/2010 dated 28.9.2010 on the file of Joint 2 Sub Registrar's Office, Tiruppur respectively and consequently direct the respondents to handover all the original documents kept with them as a security.

For petitioners : Mr.V. Raghavachari
for Mr. MA.P. Thangavel

For respondents : Mr.S. Sathyanarayanan

ORDER

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

With the consent of both parties, this writ petition is taken up for final disposal.

2 The petitioners, who are stated to be borrowers, have come to a compromise in the Lok Adalat organised by Coimbatore District Legal Services Authority on 12.04.2014. The Bank was duly represented by an Assistant General Manager. Based on the compromise memo, an award was passed in the Lok Adalat with the following direction.

"1. Claimant and respondents 1 and 2 present. 3rd respondent represented by 2nd respondent. They settled their dispute amicably for Rs.55,00,000/- against Rs.1,41,14,421/-. The respondent is directed to pay a sum of Rs.25,000/- on or before 31.03.2014. Further the respondent is directed to pay the entire remaining balance amount of Rs.54,75,000/- within six months i.e. On or before 15.09.2014. In case of default, the respondents are liable to pay the balance of entire suit claim along with interest as prayed in the plaint. After discharging the entire amount as per the award, the claimant is directed to return the original documents from the DRT, Coimbatore. As such award passed accordingly.

2. The applicant Bank is entitled to bring the schedule mentioned property/security for sale, for recovery of the amount due under clause 1 read with clause 3 above and for the balance if any, the plaintiff is entitled to recover it from the defendants personally and from his/her other Assets, with costs.

3. It is ordered that Court-fees paid by the applicant Bank in the said case shall be refunded to the said applicant Bank in accordance with law."

3 According to the learned counsel appearing for the petitioners, despite compliance on the part of the petitioners, the bank has failed to return the original documents, necessitating filing of the instant writ petition for a direction, as aforesaid.

4 In the course of the arguments, the learned counsel appearing for the Bank submits that the Officer, who represented the Bank, was not a competent person and as such, the application being I.A.No.1453 of 2014 in O.A.No. 199 of 2013 was filed before the Debts Recovery Tribunal, Coimbatore, praying not to pass final order or decree based on the Lok Adalat Award passed on 12.04.2014.

5 As a riposte, the learned counsel appearing for the petitioners submits that once the Lok Adalat award has been passed with the consent of the parties, the same is not open to challenge before any forum.

6 Be that as it may, we are not inclined to go into the merits of the case, at this stage. Since the application, as aforesaid, is pending consideration, the learned counsel for the parties submit that a direction may be given to the Debts Recovery Tribunal, Coimbatore, to dispose of same, at the earliest.

7 In view of the above submission, without going into the merits of the case, the Presiding Officer, Debts Recovery Tribunal, Coimbatore, is directed to examine the dispute and pass a reasoned order in accordance with law and on its own merits, within a period of four weeks from the date of receipt of a copy of this order.

This writ petition is disposed of with the above direction. No costs. Connected miscellaneous petition is closed.

sd/-

Assistant Registrar (CO)

/TRUE COPY/

Sub-Assistant Registrar

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To

1. The Branch Manager,
Bank of India, SME Branch,
No. 1(3) T.S. Arcade Park Avenue,
Kumar Nagar, Tiruppur -3.

2. The Assistant General Manager,
Bank of India, Coimbatore Zone,
Star House, 324 Oppanakara Street,
Coimbatore 641 001.

+1 CC to MR.MA.P. Thangavel Advocate. SR.NO.347

+1 CC to MR.S.Sathyannarayanan Advocate. SR.NO. 117

W.P. No.31441 of 2015

CO-NM

JD 12/01/2016