

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.34257 of 2015

T A Labs Private Limited
New No.17, New Street
Kottur, Chennai 600 085
rep by its Managing Director

.. Petitioner

-VS-

1. The Presiding Officer
Debts Recovery Tribunal II
Chennai

2. The Authorised Officer
Corporation Bank
South End Road
Mill Corner, Seshadripuram
PO Malleswaram
Bangalore 560 020

3. Mr.M.Devasenapathyh

4. D.Kaushik Senthil Prasad

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records of the first respondent in S.A.No.23 of 2015 and quash its order dated 14.09.2015.

For Petitioner :: Mr.P.Raghunathan for
Mr.M.Pradeep Shankar

For Respondents :: Mr.S.Sethuraman for R2
No appearance for R3 & R4

ORDER

(Order of the Court was delivered by HULUVADI G.RAMESH, J.)

Heard the learned counsel for the petitioner and the learned counsel for the second respondent Bank.

2. This writ petition is against the impugned order passed by the first respondent-Tribunal in dismissing the application filed by the petitioner under Section 17(1) of the SARFAESI Act to set aside the securitisation proceedings including the possession notice dated 21.11.2014 issued by the second respondent Bank.

3. When the matter was taken up, the learned counsel for the petitioner/tenant sought for extension of time of three months to handover vacant possession of the property. The learned counsel for the second respondent Bank resisted for such a prayer.

4. Having heard the learned counsel on either side, we are of the view that even as per the provisions of the Tamil Nadu Buildings (Lease & Rent Control) Act, when the tenant is in occupation, normally the tenant has to be evicted only after following due process of law. In this context, it is also useful to refer to the recent judgment of the Apex Court in **Vishal N.Kalsaria v. Bank of India and others, 2016 SCC Online SC 64**, wherein the Apex Court has held as follows:-

"40. In view of the above legal position, if we accept the legal submissions made on behalf of the Banks to hold that the provisions of SARFAESI Act override the provisions of the various Rent Control Acts to allow a Bank to evict a tenant from the tenanted premise, which has become a secured asset of the Bank after the default of loan by the landlord and dispense with the procedure laid down under the provisions of the various Rent Control Acts and the law laid down by this Court in catena of cases, then the legislative powers of the State Legislatures are denuded which would amount to subverting the law enacted by the State Legislature. Surely, such a situation was not contemplated by the Parliament while enacting the SARFAESI Act and therefore the interpretation sought to be made by the learned counsel appearing on behalf of the Banks cannot be accepted by this Court as the same is wholly untenable in law."

5. In the light of the above dictum laid down by the Apex Court, it is for the second respondent Bank to evict the petitioner after following due process of law and take possession. However, as sought for by the learned counsel for the petitioner, the petitioner is directed to handover vacant possession of the property on or before 30.09.2016. So far as the rental aspect is concerned, it is to be worked out by the second respondent Bank with the landlord for the relevant period. With this observation, the writ petition is ordered accordingly. Consequently, M.P.No.1 of 2015 is closed. No costs.

Index : yes/no

(H.G.R.,J.) (M.V.M.,J.)
24.06.2016

ss

To

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HULUVADI G.RAMESH, J.
AND
M.V.MURALIDARAN, J.

SS

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