

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2016

CORAM

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

Writ Petition No.11312 of 2012
and

M.P.No.2 of 2012 and
WMP.No.22048 of 2016

K.Elangovan

...Petitioner

Vs.

1.The Indian Bank,
represented by its Chief Manager,
Asset Recovery Management Branch-II,
4th Floor,
Circle Office Buildings,
Ethiraj Salai,
Chennai - 600 008.

2.M/s.Lloyds Agro Spices Industries,
No.444/3, Arcot Road,
Alapakkam, Porur,
Chennai - 600 116.

3.Manjula

4.Anandhi

5.N.Sankaran

6.C.Guna

7.S.A.Geetha

8.Kuppuswamy Mudaliar

9.S.D.B.Lakshmi Sankaran

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records in the order of Lok Adalat Case No.422676/2010 from the Court/Debt Recovery Tribunal -II dated 23.09.2010 in O.A.No.96 of 2007 and quash the same.

For Petitioner : Mr.S.V.Ramamurthy
For R1 : Mr.P.V.Muralidhar

For R2 to R4 : Mr.Manivannan
R6, R7 & R9

ORDER

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

Challenging the award dated 23.09.2010 passed by the Lok Adalat in Case No.422676/2010 arising out of O.A.No.96/2007 on the file of the Court / Debt Recovery Tribunal-II, the petitioner has filed the present writ petition.

2. It is the case of the petitioner that his grandmother S.Adhilakshmiammal, who died on 15.05.1984, was the absolute owner of the properties in S.No.132/1B measuring to an extent of 0.11.5 Hectares, S.No.282/1 measuring to an extent of 0.14.0Hectares, S.No.283/2 measuring to an extent of 0.25.0Hectares, S.No.285/1 measuring to an extent of 0.12.0 Hectares, S.No.285/2 measuring to an extent of 0.18.5 Hectares, S.No.286/2 measuring to an extent of 0.20.0 Hectares and S.No.300/5 measuring to an extent of 0.63.0 Hectares. Somehow, the parent documents of the above mentioned lands were in the custody of the respondents 2 to 9, who, in turn, pledged the same with the first respondent Bank in the year 2005, which is illegal and a fraudulent act. Therefore, the petitioner sent a notice dated 20.09.2006 to the first respondent. Thereafter, he preferred a complaint dated 27.06.2011 to the Superintendent of Police, Kancheepuram District requesting to take action against the third respondent and three others and to recover the documents pertaining to the properties in question.

3. It is the further case of the petitioner that with respect to the properties in question, the first respondent filed SARFEASI Application No.96/2007 before the Debts Recovery Tribunal-II, Chennai, against the respondents 2 to 9 herein. The said application was disposed of, by an award passed by the Lok Adalat in Case No.422676/2010 dated 23.09.2010. Aggrieved over the same, the petitioner is before this Court.

4. According to the learned counsel for the petitioner, the petitioner has no knowledge about the custody of the original documents with the respondents 2 to 9 and the mortgage of the properties belonging to the petitioner's grandmother by them with the first respondent Bank, whereas, learned counsel for the respondents 2 to 9/borrowers submits that the criminal complaint lodged by the petitioner itself would show that the petitioner is aware of the entire transactions with

respect to the properties in question. He further submits that now, the petitioner is no more.

5. Heard the learned counsel for the petitioner, learned standing counsel for the first respondent Bank and learned counsel for the respondents 2 to 4, 6, 7 and 9 and also perused the available materials.

6. In this writ petition, it is the specific case of the petitioner that the documents pertaining to the properties belonging to his grandmother have been mortgaged by the respondents 2 to 9 with the first respondent Bank behind his back and loan has also been obtained by them. However, a reading of the complaint dated 27.06.2011 lodged by the petitioner before the Superintendent of Police, Kanchipuram District, copy of which is enclosed at page 4 of the typed set of papers filed along with this writ petition, would reveal that during the year 2000, the petitioner himself had handed over the original documents with respect to the properties belonging to his grandmother Adhilakshmiammal, to one Rathinam, who is his friend, for the purpose of obtaining loan and the said Rathinam had entrusted the same to his friends by names Kanniappan and Masilamani, who in turn, had given it to another person by name Manjula/ third respondent herein, who had pledged the same with the first respondent Bank and obtained loan.

7. In view of such stand taken in the complaint lodged by the petitioner and also taking note of the fact that the petitioner is now no more, this writ petition is dismissed as abated. However, the legal heirs of the petitioner are at liberty to approach the appropriate forum for appropriate relief. No costs. Consequently, WMP.No.22048 of 2016 is dismissed. M.P.No.2 of 2012 is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To
The Chief Manager
Asset-Recovery Management
Branch-II, 4th floor Circle
office Buildings Ethiraj Salai
Chennai
+1 cc to Mr.P.V.Muralidhar Advocate sr 47968

W.P.No.11312 of 2012

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