

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2016

CORAM:

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

W.P. No.40645 of 2015 and M.P. Nos.1 & 2 of 2015

Kanderi Fruitpack Pvt. Ltd.
represented by its Managing Director
Madan Mohan Kanderi
Flat F-1, AGP, Sivaniyam
W-811, Syndicate Bank Colony 9th Street
Anna Nagar West Extension
Chennai 600 101

Petitioner

Vs.

- 1 The Authorised Officer/Assistant General Manager
Bank of Baroda
International Business Branch
45, Moore Street, IV Floor
Chennai 600 001
- 2 The Chief Metropolitan Magistrate
Egmore, Chennai 600 008
- 3 A.P. Kannan (1411/1998)
Advocate Commissioner
Egmore Court Advocates Association
Chennai

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents 1 to 3 to remove the lock and seal made on the premises situate at Flat F-1, AGP, Sivaniyam, W-811, Syndicate Bank Colony, IX Street, Anna Nagar West Extension, Chennai 600 101, forthwith and restore physical possession to the petitioner, after taking a complete inventory, measurements and physical features and by drawing a Panchnama within a time frame.

For petitioner Mr. R. Nagasundaram

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

This writ petition is filed seeking a writ of mandamus directing the respondents 1 to 3 to remove the lock and seal made on the premises situate at Flat F-1, AGP, Sivaniyam, W-811, Syndicate Bank Colony, IX Street, Anna Nagar West Extension, Chennai 600 101, forthwith and restore physical possession to the petitioner, after taking a complete inventory, measurements and physical features and by drawing a Panchnama within a time frame.

2 The first respondent, being the secured creditor, made an application to the Chief Metropolitan Magistrate, Egmore, Chennai (for short "the CMM") in Crl.M.P. No.1385 of 2014 invoking jurisdiction under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, against the petitioner. The learned CMM, vide order dated 16 April 2014, appointed an Advocate Commissioner to take possession of the property in the schedule after taking inventory, if necessary, with the assistance of the Station House Officer, V5, Thirumangalam Police Station, Chennai and to hand over the same to the secured creditor, viz., the first respondent bank. Assailing the said order dated 16 April 2014 passed by the learned CMM, the petitioner preferred a writ petition being W.P. No.30459 of 2014. A Division Bench of this Court, wherein, one of us (Satish K. Agnihotri, J.) was a Member, by order dated 07 January 2015, declined to interfere with the impugned order, reserving liberty to the petitioner to prefer an appeal, if so advised, under the provisions of law. Pursuant thereto, the petitioner filed an Interlocutory Application in I.A. No.51 of 2015 in O.A. No.68 of 2013 before the Debts Recovery Tribunal-II, Chennai (for short "the DRT"). The DRT, vide order dated 18 February 2015, allowed the said Interlocutory Application in part, holding as under:

"8. In the result, the IA is partly allowed. The Recovery Officer is directed to sell the immovable property described as Item No.3 in Schedule "B" appended to O.A. 68/2013 in open auction as per the procedure within three months. Both the parties are directed to cooperate with the Recovery Officer accordingly. No costs."

3 According to the learned counsel for the petitioner, the petitioner has no grievance with reference to the aforesaid order dated 18 February 2015 passed by the DRT. The petitioner has come up with the instant writ petition seeking a direction to remove the lock and seal affixed on the premises, forthwith and restore physical possession to it, after taking a complete inventory.

4 In Crl.M.P. No.1385 of 2014 filed by the first respondent bank, the learned CMM passed the order on 16 April

2014 for handing over possession of the secured asset, which was the subject matter in I.A. No.51 of 2015. The said Interlocutory Application was disposed of by the DRT on 18 February 2015. The said order dated 18 February 2015 passed by the DRT is not assailed in any of the proceedings and as such, no direction, as aforesaid, can be granted in this writ jurisdiction.

Accordingly, the writ petition stands dismissed sans costs. The petitioner may seek appropriate relief before the appropriate forum available under the provisions of law, if so advised. Connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

cad

To

1 The Authorised Officer/Assistant General Manager
Bank of Baroda
International Business Branch
45, Moore Street, IV Floor
Chennai 600 001

2 The Chief Metropolitan Magistrate
Egmore, Chennai 600 008

1 cc to M/s. R. Nagasundaram, Advocate, Sr. 1271

W.P. No.40645 of 2015

MP (CO)

सत्यमेव जयते

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