

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.23325 of 2016

The Authorised Officer
Tamilnad Mercantile Bank Ltd.,
Mettupalayam Branch
Coimbatore District ... Petitioner

-vs-

1. The Registrar
Debt Recovery Tribunal
Coimbatore
2. Minor R.Gokila Arthi
3. Minor R.Sruthi
rep.by her next friend and
grand mother Mrs.S.Rajammal
4. A.R.Marannan
5. Mrs.Samakkal
6. Mrs.M.Ajantha ... Respondents

Petition under Article 226 of the Constitution of India,
praying for the issue of a Writ of Mandamus, directing the first
respondent to dispose of SA No.68 of 2014 pending on the file of
DRT, Coimbatore on merits and in accordance with law within the
time limit that may be fixed by this Hon'ble Court.

For Petitioner :: Mr.V.Chandrasekaran

ORDER

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

The petitioner-Tamil Nadu Mercantile Bank Limited,
Mettupalayam Branch seeks for issuance of a writ of mandamus,
directing the first respondent to dispose of S.A.No.68 of 2014
pending on the file of Debts Recovery Tribunal, Coimbatore on
merits and in accordance with law within the time limit that may
be fixed by this Hon'ble Court.

2. According to the petitioner, M/s Ultra Tiles World represented by its Proprietor Mr.Ramesh was sanctioned with the loan facility in the form of security overdraft to the tune of Rs.25 lakhs on 25.7.2012 and since the account became a Non Performing Asset on 30.6.2013, the petitioner Bank was constrained to initiate measures under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the SARFAESI Act") against the borrower. Since the borrower died on 14.10.2012, a notice under Section 13(2) of the SARFAESI Act was issued to the legal heirs of the deceased borrower demanding the outstanding amount of Rs.21,76,962.37 as on 31.10.2013 with future interest and penal interest. As the said notice evoked no response, the petitioner Bank again issued the possession notice under Section 13(4) of the Act and also proceeded with the auction by issuing the auction sale notice dated 19.2.2014. However, challenging the auction sale notice, the respondents 2 & 3 filed S.A.No.68 of 2014 before the first respondent Tribunal. As the respondents 2 & 3 failed to comply with the conditional order passed by the Tribunal, the petitioner Bank was constrained to sell the mortgaged property in favour of the successful bidder Mr.K.Velusamy and Mrs.V.Subbulakshmi and the auction purchasers have complied with the terms and conditions by making the payment of 25% auction amount including the earnest money deposit and also ready to pay the balance amount. In this background, the second respondent has filed applications for amendment and stay in S.A.No.68 of 2014 to include the sale notice dated 5.2.2016 and the first respondent Tribunal has granted an order of status quo on 14.3.2016 pending consideration of the amendment and stay applications. Therefore the grievance of the petitioner Bank is that since the respondents 2 & 3 are thwarting the attempts of the Bank to recover the dues, a direction has to be issued to the first respondent Tribunal to dispose of the pending S.A.No.68 of 2014 on merits and in accordance with law within a time frame fixed by this Court.

3. Having heard the learned counsel for the petitioner, we dispose of this writ petition with a direction to the first respondent-Debts Recovery Tribunal, Coimbatore to expedite the hearing of the S.A.No.68 of 2014 and to dispose of the same on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order after affording opportunity to the parties. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ss

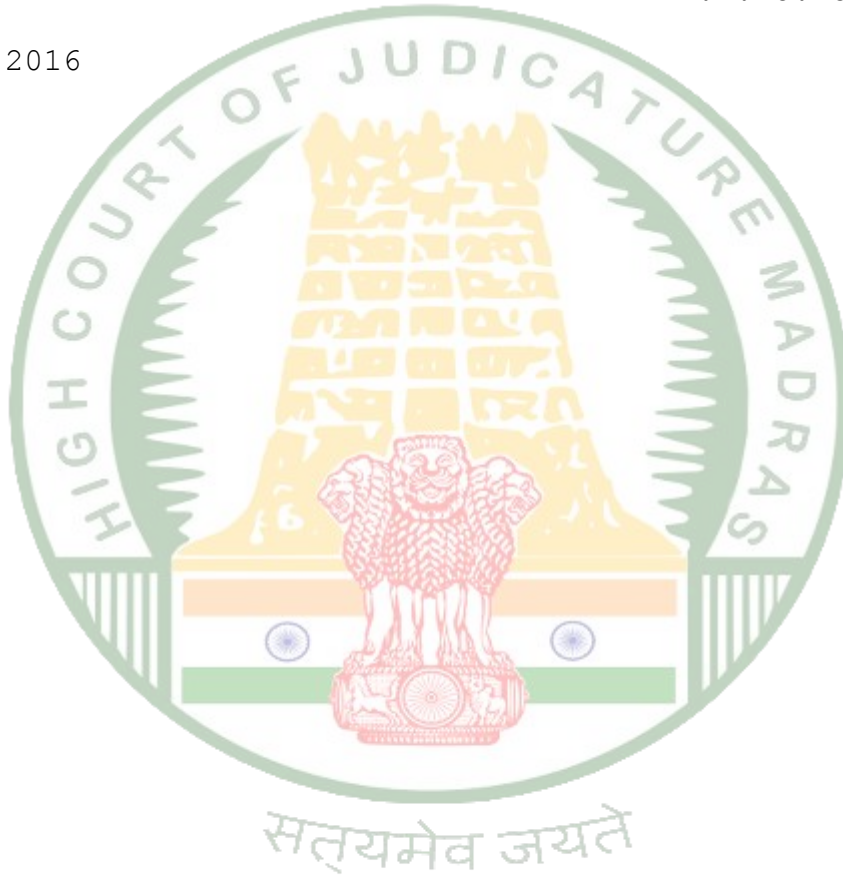
To

1. The Registrar
Debt Recovery Tribunal
Coimbatore

1 cc to Mr.V.Chandrasekaran, Advocate, sr.38103

W.P.No.23325 of 2016

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