

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.8.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.24120 of 2016

and

W.M.P.Nos.20653 and 20654 of 2016

M.Ashraf Ali

... Petitioner

Versus

1. The Senior Manager
Canara Bank C.P.Road
Chennai-600 002.
2. The Authorized Signatory
Canara Bank
General Patterns Road
Chennai-600 002.
3. Abdul Aslam
Proprietor of
M/s.Rabmaniya Steel Traders
No.430/1 T.H.Road
Old Washermenpet
Chennai-600 021.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the possession notice dated 22.06.2016 issued by the authorized officer Canara Bank the 2nd Respondent with respect to the petitioner's property at Old No.28, New No.10, Kumarappan Street, VOC Nagar, Seven Wells, Tondiarpet Taluk, measuring an extent of 1645 sq.ft and to quash the same.

For petitioner : Mr.J.Abdul Hadi
for M/s.S.Ramachandran

For R1 and R2 : Mr.S.Kesavan

ORDER

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

Heard the learned counsel appearing for the petitioner and Mr.S.Kesavan, learned counsel appearing for the respondent-Bank.

2. The writ petition has been filed seeking issuance of a writ of certiorari to call for the possession notice dated 22.06.2016 issued by the authorized officer Canara Bank the 2nd Respondent with respect to the petitioner's property at Old No.28, New No.10, Kumarappan Street, VOC Nagar, Seven Wells, Tondiarpet Taluk, measuring an extent of 1645 sq.ft and to quash the same.

3. The case of the petitioner is that he stood guarantor offering his title deed for the property at Old No.28, New No.10, Kumarappan Street, VOC Nagar, Seven Wells, Tondiarpet Taluk measuring an extent of 1645 sqft for the loan facility to the tune of Rs.85,00,000/- availed by the third respondent from respondents 1 and 2 on 27.12.2010, but, later, the third respondent, somehow availed further loan facility to the tune of Rs.1,30,00,000/- on 26.7.2013 and Rs.1,65,00,000/- on 17.6.2014 by creating documents using the papers wherein the petitioner had already signed on 27.12.2010 and for the default committed by the third respondent, the petitioner is subjected to SARFAESI proceedings and now possession notice has been issued under section 13(12) of SARFAESI Act which is under challenge in the present writ petition.

4. It appears that pending the proceedings before the Debts Recovery Tribunal-II, Chennai, the petitioner has been issued with the possession notice by the respondent-bank and thereby the petitioner, contending that he is only a guarantor, seeks the relief to quash the proceedings. Therefore, all the contentions are left open to be raised before the Debts Recovery Tribunal and the respondent bank also would take care of the submissions of the petitioner with regard to extent of liability on his part with respect to the first loan transaction and not the subsequent loan facility availed by the third respondent. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Senior Manager
Canara Bank C.P.Road
Chennai-600 002.
2. The Authorized Signatory
Canara Bank
General Patterns Road
Chennai-600 002.

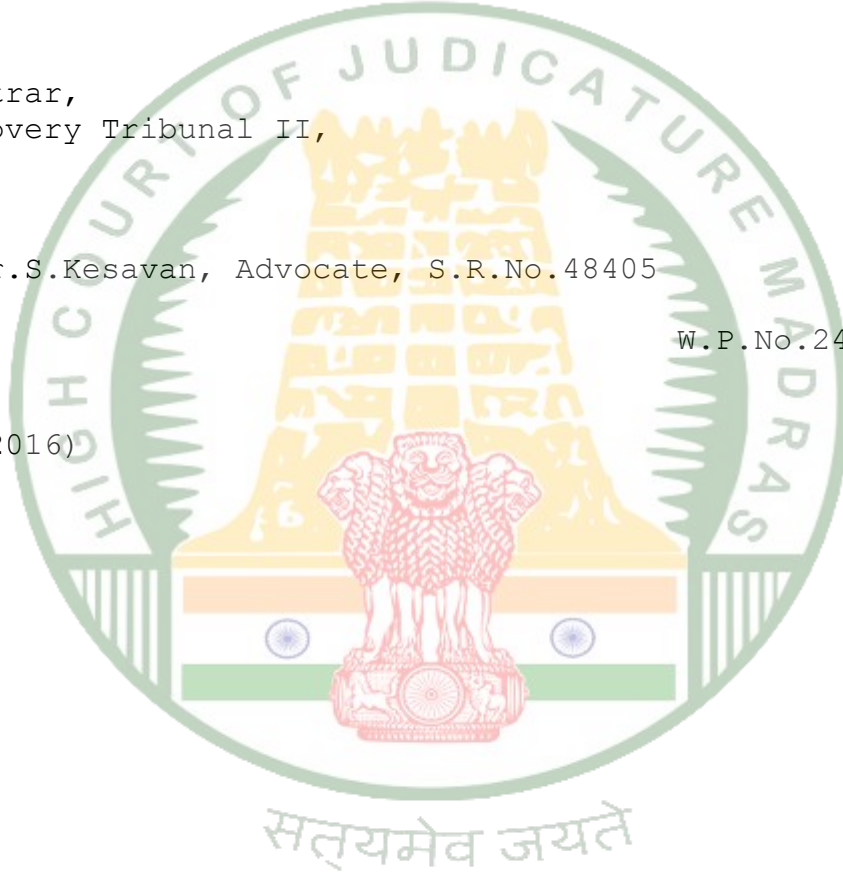
Copy To

The Registrar,
Debts Recovery Tribunal II,
Chennai.

+1cc to Mr.S.Kesavan, Advocate, S.R.No.48405

W.P.No.24120 of 2016

MG (CO)
CA(19/09/2016)



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