

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.6.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH  
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.25817 of 2012,  
M.P.Nos.1, 2 of 2012,  
W.M.P.No.13610 of 2016,  
W.P.No.25892 of 2012  
and  
M.P.Nos.1 and 2 of 2012

Pon.Baskaran

Petitioner in W.P.No.25817/2012

1. S.D.Rajan
2. Yasodha
3. D.Pachaiyappan
4. V.Anthony Miller
5. P.Thangaraj
6. E.Somasundaram
7. K.Cithra
8. Bhavana Rathi
9. Suresh Kumar Rathi
10. K.Balaji

Petitioners in W.P.No.25892/2012

Versus

1. Punjab & Sind Bank,  
Asset Recovery Management Branch,  
No.770-A, Spencer Tower,  
Anna Salai, Chennai-2.  
rep. by its Authorised Officer,  
Tr.Tara Chand Tanwar
2. M/s.Visesh Leather Garments,  
Proprietor Mr.K.Narayanan,  
No.132/127-1, Vepery High Road,  
Periamet, Chennai 600 003.
3. Nirmala Kumari
4. K.Radhakrishnan
5. The Chief Judicial Magistrate,  
Thiruvallur.

6. R.Jayaraj

(R6-implemented vide order dated  
17.1.2013 in M.P.Nos.3 & 3 of 2012)

Respondents in both WPs.

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records in C.M.P. No.887 of 2012 on the file of Chief Judicial Magistrate Thiruvallur dated 16.8.2012 and quash the same as illegal, arbitrary and consequently direct the 1st respondent to restore the possession of the petitioners in their respective shops comprised in S.No. 594/1A(2) of Ambattur Village and Taluk, Door No.1 Venkararama Iyer Street, Ambattur, Chennai 53.

For petitioner in W.P.No.25817/2012 : Mr.N.R.Chandran  
SC for M/s.Aravindan

For petitioners in W.P.No.25892/2012 : Mr.B.Vijay

For R1 : Mr.V.Bhiman for  
Associates : M/s.Samathkumar

Associates

For R3 : Mr.P.Vasudevan

For R6 : Mr.A.Palaniappan

COMMON ORDER

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

Heard the learned counsel appearing for the parties.

2. The writ petitions have been filed seeking issuance of a writ of certiorarified mandamus to call for the records in C.M.P. No.887 of 2012 on the file of Chief Judicial Magistrate Thiruvallur dated 16.8.2012 and quash the same as illegal, arbitrary and consequently direct the 1st respondent to restore the possession of the petitioners in their respective shops comprised in S.No. 594/1A(2) of Ambattur Village and Taluk, Door No.1 Venkararama Iyer Street, Ambattur, Chennai 53.

3. It appears that that in respect of the property in question, there was a lis pending between the first respondent bank and the owner of the property viz., the third respondent who stood as guarantor for the loan availed by the second respondent and pending such lis, the third respondent sold the property to various persons including the petitioners and therefore, proceedings were initiated before the Chief Judicial Magistrate, Thiruvallur and the very proceedings before the Chief Judicial Magistrate is sought to be challenged.

4. There is lack of jurisdiction and rather the District Collector is the person to decide on the issue of possession, etc. Such being the case, it is for the first respondent bank to approach the District Collector or the Debt Recovery Tribunal as the case may be to pass orders in accordance with law. The writ petitions are disposed of with this direction setting aside the order passed by the Chief Judicial Magistrate, Thiruvallur. However, it is hereby ordered that within fifteen days, the first respondent bank has to approach the District Collector or the Debt Recovery Tribunal as the case may be and till then shall will be an order of status quo. No costs. The connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Chief Judicial Magistrate,  
Thiruvallur.
2. Tara Chand Tanwar, Authorised Officer,  
Punjab & Sind Bank,  
Asset Recovery Management Branch,  
No.770-A, Spencer Tower,  
Anna Salai, Chennai-2.
3. The District Collector  
Thiruvallur.
4. The Debt. Recovery Tribunal  
Chennai.

2 ccs to Mr.A.Palaniappan, Advocate, sr.35209, 35210  
2 ccs to M/s.Sampathkumar Associates, sr.35031  
2 ccs to Mr.M.Aravindan, Advocate sr.34974

W.P.Nos.25817 and 25892 of 2012

kji co  
kra 12.07.2016