

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 7/10/2016

C O R A M

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

AND

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

Writ Petition Nos.27993 and 27994 of 2016

K.Karthick ... Petitioner in W.P.No.27993 of 2016

a n d

K. Sangeetha ... Petitioner in W.P.No.27994 of 2016

Vs

1. The Authorised Officer
Union Bank of India
Overseas Branch
75 G.N.Chetty Road
T. Nagar
Chennai 600 017.
2. The Chief Manager
Union Bank of India
Overseas Branch
Now represented by
Asset Recovery Branch -ARB
No.139 Prakasam Salai
Broadway
Chennai 108.
3. The Presiding Officer
Debts Recovery Tribunal - II
770 A Anna Salai
Chennai 600 002.
4. The Recovery Officer
Debts Recovery Tribunal - II
770 A Anna Salai
Chennai 600 002.

Prayer: Petitions filed under Article 226 of the Constitution of India praying for the issuance of writs of certiorarified mandamus to call for the records comprised in the impugned notice of settling a sale proclamation dated 16/7/2016 passed by the Hon'ble Debt Recovery Tribunal No.2, Chennai vide DRC No.179/2012 in O.A.No.61/2010 quash the same and direct the fourth respondent not to take any recovery proceeding till the Appeal suit in A.S.No.24/2013 is disposed of by the Hon'ble High Court of Madras.

For petitioners Mr.G.Nakkeeran

COMMON ORDER

(Order of the Court was made by S.Manikumar,J)

Material on record discloses that on 2/6/2016, an order of attachment has been made in D.R.C.No.179/2012 in O.A.No.61 of 2010 and the order reads as follows:-

ORDER OF ATTACHMENT

Whereas you the defendants have failed to pay Rs.1,17,90,290.06 p (Rupees One Crore Seventeen lakhs ninety thousand two thousand two hundred and ninety and paise six only) and further interest and costs as per law payable by you, to the applicant/certificate holder in terms of Debt Recovery Certificate No.179/2012 dated 24/9/2012 issued in O.A.No.61/2010 by the Hon'ble Presiding Officer of this Tribunal and Notice of Demand dated 25/9/2012 subsequently issued by the Recovery Officer of this Tribunal for recovery of the aforesaid amount.

It is hereby ordered that you, the defendant No.4/certificate Debtor No.4, Mr.C.S.Kumarasamy be and you are hereby prohibited and restrained, until further order of the undersigned, from transferring or charging the undermentioned properties in any way and that all persons be, and that they are prohibited from taking any benefit under such transfer of charge.

Also note that if the dues are not paid forthwith, the undermentioned properties will be sold by public auction and the money will be realised towards the debt.

Description of the Properties

Schedule - A

All that piece and parcel of 22.21 cents of land with building that comprises 2 items of property, viz.,

Item No.1

All that piece and parcel of land and building measuring about 3644 $\frac{1}{4}$ sq. ft., bearing Door No.1, Chennimalai Ward and comprised in R.S.No.192/19, Old S.No.239/A2 situated at Attavanaipidariyar Village, Perundurai Taluk, Erode District and bounded on the:-

North by : R.S.No.192/22
South by : R.S.No.192/18
East by : R.S.No.192/20 & 21
West by : P.R.S.Road

and situated within the registration District of Erode and Sub-Registration District of Chennaimalai.

Item No.2

All that piece and parcel of land and building measuring about 6028 Sq.ft., bearing Door No.12 Ward No.2 Chennamalai Ward and comprised in R.S.No.216/4, Old S.No.240 C, situated at Attavanaipidariyar Village, Perundurai Taluk, Erode District and bounded on the

North by : Panchayat common way
South by : Ramasamy Gounder's house
East by : P.R.S.Road
West by : Murthy's house

Both the items total measuring 9672 sq.ft., and situated within the Registration District of Erode and Sub-Registration District of Chenniamalai and now exists consisting of Door Nos.1, 2, 3, 12, 14 & 16 within the aforesaid Village."

2. Subsequently, on 16/7/2016, notice of settling a sale proclamation has been issued and the operative portion of the order reads thus:-

"You are hereby informed that the 8th August 2016 (Monday), at 11.00 a.m., has been fixed for drawing up the proclamation of sale and settling the terms thereof. You are requested to bring to the notice of the undersigned any encumbrances, charges, claims or liabilities attaching to the said properties or any portion thereof."

3. Being aggrieved by the latter, the petitioner has filed a writ of certiorarified mandamus, to call for the records comprised in the impugned notice of settling a sale proclamation, dated 16/7/2016, passed by the Hon'ble Debt Recovery Tribunal No.2, Chennai, vide DRC No.179/2012 in O.A.No.61/2010, quash the same and direct the fourth respondent not to take any recovery proceeding till the Appeal suit in A.S.No.24/2013 is disposed of by the Hon'ble High Court.

4. Relief sought for in these writ petitions cannot be granted in exercise of the power under Section 226 of the Constitution of India, as the petitioners have an alternative remedy before the appropriate forum.

5. In the result, these writ petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petition Nos.24157 to 24160 of 2016 are dismissed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1. The Authorised Officer
Union Bank of India
Overseas Branch
75 G.N.Chetty Road
T. Nagar
Chennai 600 017.
2. The Chief Manager
Union Bank of India
Overseas Branch
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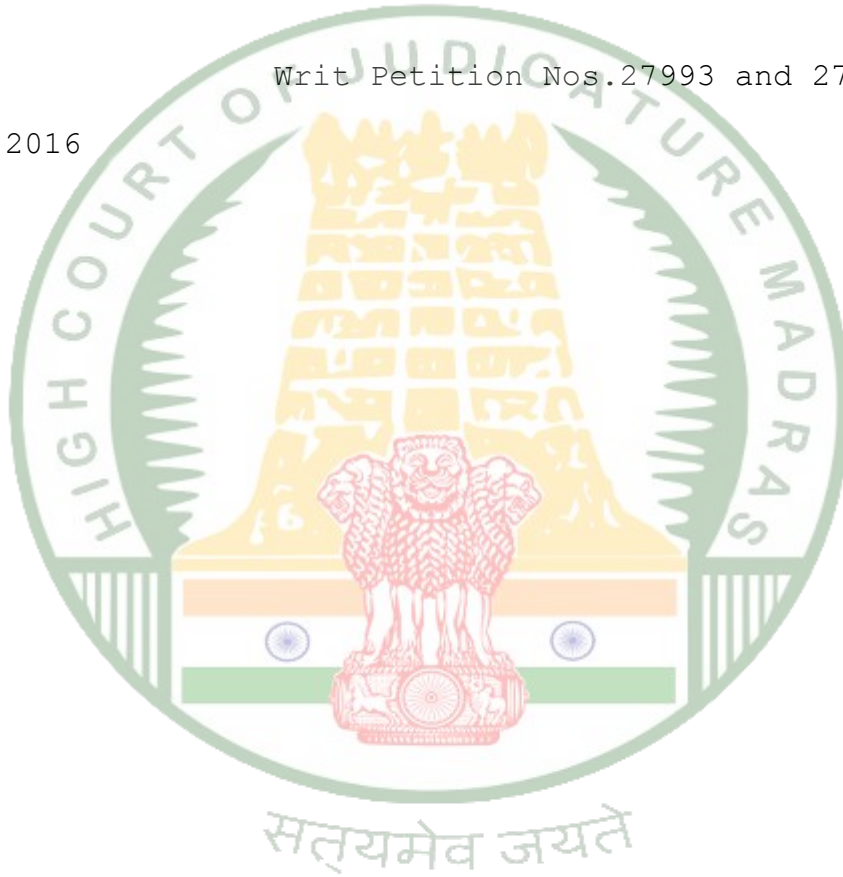
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4. The Recovery Officer
Debts Recovery Tribunal - II
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+2cc to Mr.G.Nakkeeran, Advocate vide SR.NO. 58273 and 58274

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SSI (CO)
MMP 15.11.2016



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