

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

W.P.No.28166 of 2016
W.M.P.No.24300 of 2016

Jaisakthi Textiles
rep.by its Incharge
K.Eswaramoorthy
Kuppusamy Naidupuram,
Tiruppur District.

... Petitioner

versus

1. The Authorised Officer,
State Bank of India,
Stress Assets Recovery Branch,
377/1, Dr.Nanjappa Road,
Coimbatore 641 081.

2. Mr.C.Selvakumar,
The Proprietor,
M/s.Kannan Tex,
D.No.236, Periya Maniyakkarar Thottam,
Amma Palayam, Palladam 641 664.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records from the 1st respondent in Letter No.SARB/CBE/2016-17, dated 12.07.2016, quash the same, insofar as the issue relating to e-auction is concerned and consequently, forbear the 1st respondent from evicting or taking any steps to evict the petitioner from the lease hold premises at S.F.No.205/2, Patta No.20, D.No.236, Periya Maniyakkarar Thottam, Amma Palayam, Palladam 641 664, through its men, agents or otherwise, without following the due process of law.

For Petitioner

: Mr.S.Silambanan,
Senior Counsel
for M/s.Profexs Associates

For 1st Respondent

: Mr.S.Sethuraman

ORDER

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

Material on record discloses that M/s.Kannan Tex, D.No.236, Periya Maniyakkarar Thottam, Amma Palayam, Palladam 641 664, the 2nd respondent herein, has taken a loan from the State Bank of India and for non-payment of the dues, a sale notice, dated 23.05.2016, has been issued. Subsequently, vide letter, dated 12.07.2016, the State Bank of India, Stress Assets Recovery Branch, Coimbatore, 1st respondent herein, has demanded the 2nd respondent, to make payment of Rs.12,12,40,399.58 immediately, failing which, the Bank would continue take action under the SARFAESI Act, 2002. Copy of the letter, dated 12.07.2016, has been marked to Mr.C.Selvakumar and two others.

2. Claiming himself to be the tenant under the borrower and contending inter alia that the 1st respondent has resorted to take coercive action for eviction, without following due process of law, the petitioner has prayed for a Writ of Certiorarified Mandamus, to quash the Letter No.SARB/CBE/2016-17, dated 12.07.2016, issued by the 1st respondent and consequently, to forbear the 1st respondent from evicting or taking any steps to evict the petitioner, from the lease hold premises at S.F.No.205/2, Patta No.20, D.No.236, Periya Maniyakkarar Thottam, Amma Palayam, Palladam 641 664, through its men, agents or otherwise, without following the due process of law.

3. Record of proceedings shows that while ordering notice to the respondents, this Court has granted status-quo, which has been periodically extended. Interim order, initially granted and extended, is solely based on the averments, not supported by any document, as to whether, the Bank had forced the petitioner, claiming himself to be a tenant, to vacate from the premises.

4. Further, letter, dated 12.07.2016, has been addressed only to the 2nd respondent, with copies marked to Mr.C.Selvakumar, Proprietor of the 2nd respondent-Company and two others. Letter sent by the Bank to the addressee, with the copies marked to others, would not give rise any cause of action to the petitioner to file the present writ petition, to quash the letter, dated 12.07.2016. For the abovesaid reason, even taking it for granted that the petitioner is a tenant, no order can be issued, to quash the said letter. If there is any action taken, it is always open to the petitioner to take re-course, in the manner known to law.

5. In the result, the Writ Petition is dismissed. No costs. Consequently connected Miscellaneous Petition is also closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

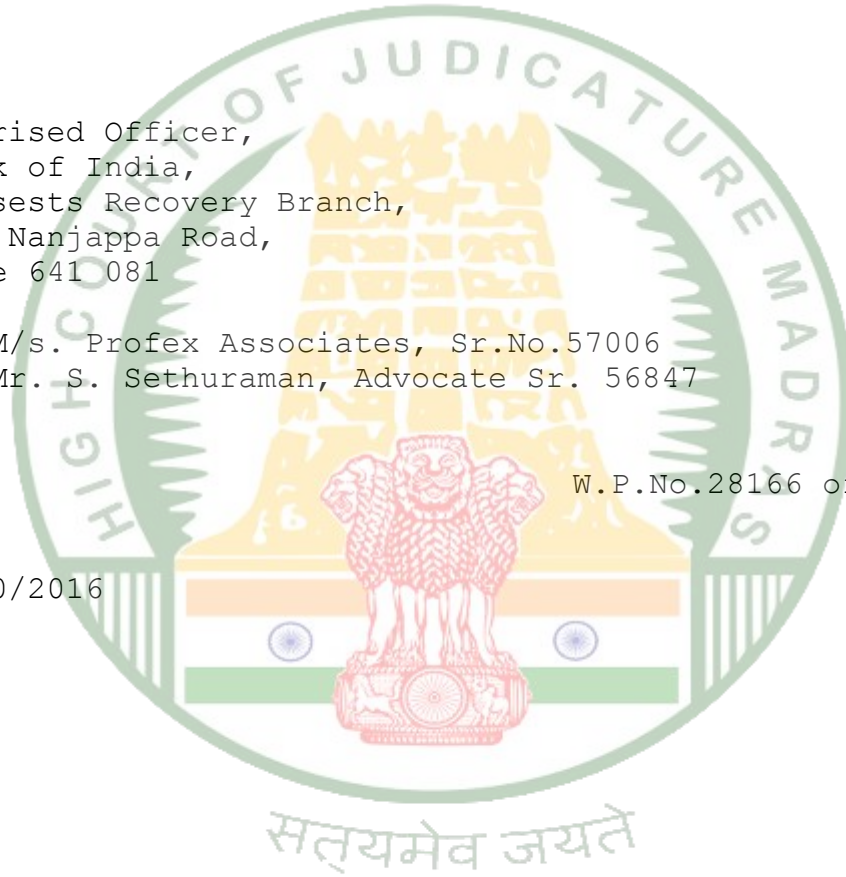
skm

To
The Authorised Officer,
State Bank of India,
Strers Assests Recovery Branch,
377/1 Dr. Nanjappa Road,
Coimbatore 641 081

+2 CC to M/s. Profex Associates, Sr.No.57006
+1 CC to Mr. S. Sethuraman, Advocate Sr. 56847

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TRM (CO)
MD : 06/10/2016



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