

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM:

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

W.P. No.33349 of 2016
and
W.M.P. No.28795 of 2016

T.Srinivasan ... Petitioner

versus

1.The Banking Ombudsman
Office of the Banking Ombudsman
Reserve Bank of India Building Floor-II
No.16, Rajaji Salai
Chennai - 1

2.The Authorised Officer/Chief Manager
Allahabad Bank
Thousand Light Branch
Old No.701-703, New No.280, Anna Salai
Thousand Light, Chennai - 600 006

3.Sri Sai Professional Services
Rep. by its Proprietor
S.Shreedharan
No.199, TTK Road
Alwarpet, Chennai - 18

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus directing the 2nd respondent to make appropriate recovery as per the orders of Learned Debts Recovery Tribunal - II, Chennai, in O.A.No.4/2013 dated 28.03.2013, from the 3rd respondent, and refund the same after adjusting the dues towards the loan, to the petitioner, and further direct the 2nd respondent, to hand over the original documents for the above mentioned property to the petitioner, without initiating any proceeding under SARFAESI Act.

For Petitioner : Mr.B.Balavijayan
For Respondents : Mr.M.Devaraj for R2

ORDER

(by S.MANIKUMAR, J.)

Petitioner has sought for a writ of mandamus directing the 2nd respondent to make appropriate recovery as per the orders of Debts Recovery Tribunal - II, Chennai, dated 28.03.2013 made in O.A.No.4/2013, from the 3rd respondent, and refund the same after adjusting the dues towards the loan, to the petitioner, and further direct the 2nd respondent, to hand over the original documents of the subject property to the petitioner, without initiating any proceeding under SARFAESI Act.

2. On this day, when the matter came up for hearing, on getting instructions from Mr.M.Ramesh, Senior Manager (Law) of the second respondent bank, present in court, Mr.M.Devaraj, learned counsel for the second respondent-bank, submitted that a sum of Rs.1,20,64,142/-, as on 28.03.2013, with interest at the rate of 15.75% per annum with monthly rests, from the date of filing of the Original Application No.4/2013 till the date of realisation, as ordered by the Debts Recovery Tribunal - II, Chennai, as ordered in the said application would be credited to the loan account of the borrower M/s.Ganbrightech (India) Private Limited, Plot No.11&12, Venkateswara Nagar, Industrial Estate, Perungudi, Chennai - 600 096. He further submitted that in view of the amended provisions, it is always open to the writ petitioner to file an application before the Tribunal, to set off the aforesaid amount.

3. Prayer sought for in this writ petition amounts to execution of an order passed by the Tribunal in O.A.No.4/2013 dated 28.03.2013, which cannot be granted. Inasmuch as O.A.No.197/2010 filed against the borrower and the writ petitioner, is stated to be pending on the file of Debts Recovery Tribunal - III, Chennai, writ petitioner shall enter appearance in the said proceedings, and take up all other defences available under law.

4. Mr.M.Devaraj, learned counsel for the second respondent-bank further submitted that, since 2010, the matter is pending. Taking note of the time consumed in service and further proceedings, the Debts Recovery Tribunal - III, Chennai, is directed to expedite disposal of O.A.No.197/2010. Respondents shall extend their cooperation.

5. With the above directions, writ petition is disposed of. However, there shall be no order as to cost. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar

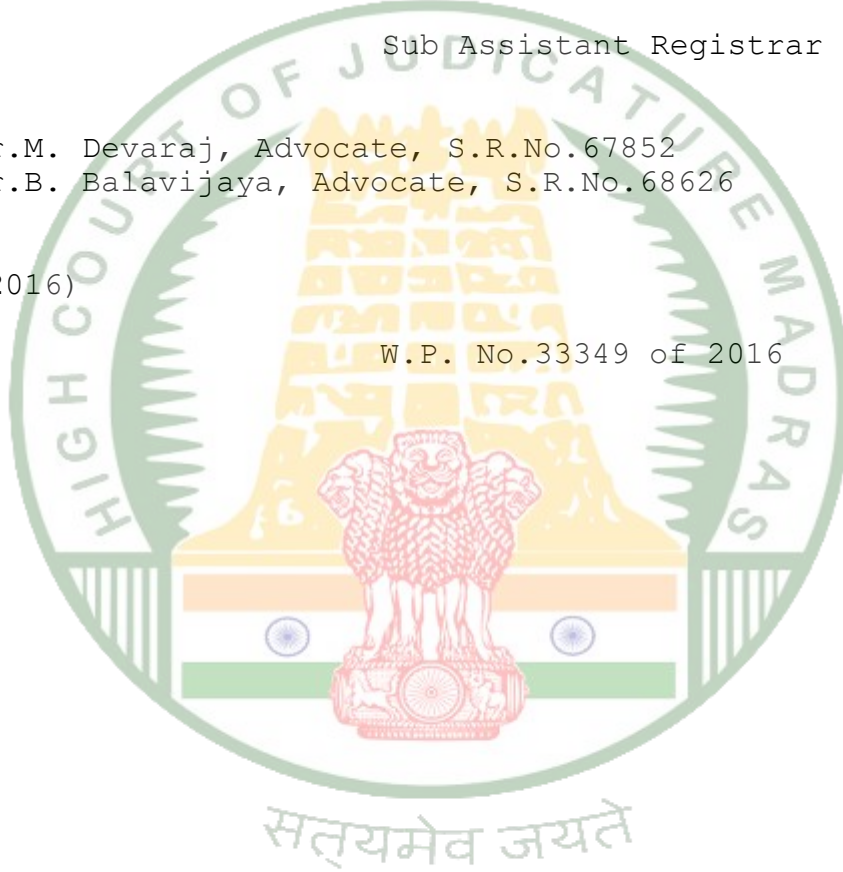
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Sub Assistant Registrar

+1cc to Mr.M. Devaraj, Advocate, S.R.No.67852
+1cc to Mr.B. Balavijaya, Advocate, S.R.No.68626

cnr(CO)
md(16/12/2016)

W.P. No.33349 of 2016



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