

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30/9/2016

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice N.Authinathan

Writ Petition No.34618 of 2016

V. Subramaniam

Petitioner

Vs

1. The District Collector
Coimbatore District
Coimbatore.
2. The Authorised Officer
Indian Overseas Bank
Coimbatore Big Bazaar Street
Coimbatore 1.
3. P. Ponraj
4. P. Velusamy
5. Mujibur Rahman
6. R. Jagadish

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to forbear the second respondent or his agents from evicting the petitioner or his tenants viz., respondents 5 to 8 herein or in anyway interfering with their peaceful possession of the premises bearing S.F.No.158 and 227/2 Site No.7 Kurichi Village, Coimbatore Taluk, Coimbatore 61 024.

For petitioners : Mr.M.Venkadeshnan

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O R D E R

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

Claiming himself to be a tenant of property bearing Survey No.158 & 227/2, Site No.7 Kurichi Village, Coimbatore Taluk, Coimbatore 641 024, on a monthly rent of Rs.8,000/-, based on rental agreement, dated 1/8/2014, entered into between the petitioner and the respondents 3 and 4/land lords, who have availed loan in the Indian Overseas Bank, Coimbatore Big Bazaar Street, Coimbatore-1/second respondent, by depositing title deeds of the above mentioned property and contending inter alia that when the landlords/respondents 3 and 4 have failed to repay the loan, auction, under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, dated 28/4/2016, has been issued and further contending that the second respondent is forcing the petitioner/statutory tenant, to vacate from the premises and under such circumstances, the petitioner has sought for a writ of mandamus, forbearing the Indian Overseas Bank/second respondent or his agents from evicting the petitioner or his tenants viz., respondents 5 to 8 herein or in anyway interfering with their peaceful possession of the premises bearing S.F.Nos.158 and 227/2 Site No.7, Kurichi Village, Coimbatore Taluk, Coimbatore 641 024.

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3. Section 14 of the above said Act reads as hereunder:-

"14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset

(1) Where the possession of any secured asset is required to be taken by the secured creditor or if any of the secured asset is required to be sold or transferred by the secured creditor under the provisions of this Act, the secured creditor may, for the purpose of taking possession or control of any such secured asset, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or, as the case may

be, the District Magistrate shall, on such request being made to him -

(a) take possession of such asset and documents relating thereto; and

(b) forward such assets and documents to the secured creditor.

Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorised officer of the secured creditor, declaring that

(i). the aggregate amount of financial assistance granted and the total claim of the Bank as on the date of filing the application;

(ii). The borrower has created security interest over various properties and that the Bank or Financial Institution is holding a valid and subsisting security interest over such properties and the claim of the Bank or Financial Institution is within the limitation period.

(iii). The borrower has created security interest over various properties giving the details of properties referred to in sub-clause (ii) above;

(iv). The borrower has committed default in payment of the financial assistance granted aggregating the specified amount;

(v). consequent upon such default in payment of the financial assistance the account of the borrower has been classified as a non-performing asset.

....." सत्यमेव जयते

4. If the petitioner is really a statutory tenant, he can always object to the taking over possession by any unlawful means and in such an event, the secured creditor can also approach the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, for assistance in taking possession of secured asset in the manner, as provided under Section 14 of the above said Act.

5. In view of the above, this writ petition is dismissed.
No costs. Consequently, the connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mvs

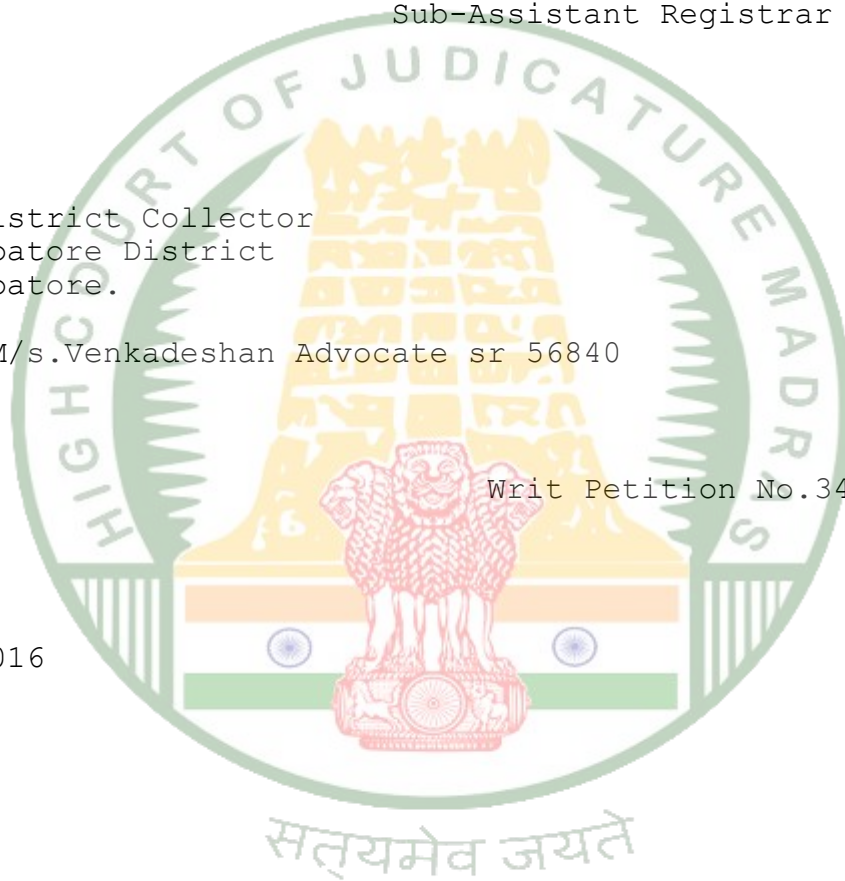
To

1. The District Collector
Coimbatore District
Coimbatore.

+1 cc to M/s.Venkadeshnan Advocate sr 56840

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