

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.3694 of 2016
and WMP.No.3082 of 2016

Kalpana Gnanasambandam

...Petitioner

Vs.

- 1.Indian Bank
Thorapalayam Branch and
represented by the Zonal Manager,
Zonal Office, Chittoor Road,
Ernakulam.
- 2.Naryananan Nair
- 3.M/s Constructions and Supplies Agencies,
465, Oppanakara Road,
Coimbatore - 640 001.
- 4.D.Parthasarathy,
Partner, M/s Constructions and Supplies Agencies,
Flat No.203, Janaki Apartments,
89, Ramalingam Road, RS Puram,
Coimbatore.
- 5.B.Raghavan
- 6.K.Bashyam
- 7.R.Geetha
- 8.V.Sathyamoorthy
- 9.P.Santha
- 10.The Recovery Officer
Debt Recovery Tribunal (Kerala & Lakshadweep),
8th Floor, K.S.H.B.Building,
Panampilly Nagar,
Cochin - 682 036.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents or their men or agents or anybody acting through them from in any manner interfering with or in any manner dispossessing the peaceful possession and enjoyment of the property bearing Old D.No.204, New D.NO.176 N, Janakai Apartments, Ramalingam Road, R.S.Puram, Coimbatore the building in any extent of 850 square feet by the petitioner and her family members pursuant to the order dated 12.01.2016 passed by the Recovery Officer, Debts Recovery Tribunal (Kerala and Lakshadweep), Cochin - 682 036 and pending disposal of the statutory appeal filed by the petitioner under Section 20 of the Recovery of the Debts due to Banks and Financial Institutions Act, 1993 before the Debt Recovery Appellate Tribunal, Chennai.

For Petitioner : Mr.V.Karthik
Senior Counsel
fro Mr.N.Damodaran
For Respondents
R1 : Mrs.Rita Chandrasekaran
for Mr.Jayesh B.Dolia
R2 : Mr.R.Thirunavukkarasu

O R D E R

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

Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first respondent and the learned counsel appearing for the second respondent.

2.As against the order of the Debts Recovery Tribunal, Ernakulam (Kerala and Lakshadweep), Cochin dated 22.07.2015, the petitioner had preferred a statutory appeal in AIR No.693 of 2015 on the file of the Debt Recovery Appellate Tribunal, Chennai. Pending statutory appeal, the petitioner received the notice dated 12.01.2016 from the Recovery Officer, Debt Recovery Tribunal (Kerala and Lakshadweep) which is purported to be an order directing the petitioner herein or to any person authorized by him to hand over vacant possession of the property to the second respondent. As against the said order of the Recovery Officer, appeal lies before the Debts Recovery Appellate Tribunal. However, since there is no regular sitting of the Debts Recovery Appellate Tribunal, Chennai, the petitioner has approached this Court.

3.In the above circumstances, since the matter has not reached finality and the appellate remedy is very much available, on consideration of the facts and circumstances of the case, we are of the view that it is for the petitioner to approach the Debts Recovery Appellate Tribunal, Allahabad or the Appellate Tribunal which exercises jurisdiction in respect of the area, within one

month from the date of receipt of a copy of this order. Till then, this Court is inclined to grant an interim direction, directing the parties concerned to maintain status quo as on date on condition that the petitioner shall deposit a sum of Rs.12.50 lakhs before the Debts Recovery Tribunal (Kerala and Lakshadweep) within a period of four weeks from the date of receipt of a copy of this order, to enable the petitioner to avail the remedy before the Appellate Tribunal, by filing the appeal. The petitioner is at liberty to raise all the contentions raised herein before the Appellate Authority.

4. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected WMP is closed.

Sd/-
Asst. Registrar (CS IV)

/true copy/

Sub Asst. Registrar

cse

To

1. Indian Bank
Thorapalayam Branch and
represented by the Zonal Manager,
Zonal Office, Chittoor Road,
Ernakulam.
2. The Recovery Officer
Debt Recovery Tribunal (Kerala & Lakshadweep),
8th Floor, K.S.H.B. Building,
Panampilly Nagar,
Cochin - 682 036.

1 cc to M/s.N. Damodaran, Advocate, Sr. 32327
1 cc to M/s.R. Thirunavukarasu, Advocate, Sr. 32889

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RP (CO)
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