

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M.VENUGOPAL

W.P. No.7218 of 2016
and
W.M.P.No.6417 of 2016

J.Gopalakrishnan .. Petitioner
Vs.

1.The Authorised Officer,
Canara Bank,
Om Sakthi N.S.P.C.T.,
Thirumalaikodi Branch,
Vellore - 632 055.

2.The Presiding Officer,
Debts Recovery Tribunal - III,
Chennai. .. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the second respondent to take I.A.No.1236/16 in S.A.No.37/2016 dated Nil, February 2016 on file and adjudicate the same and pass orders within a stipulated time.

For Petitioner .. Mr.T.P.Prabakaran

For Respondents .. Mr.P.Raghunathan
for M/s.T.S.Gopalan & Co., for R1
R2 - Tribunal

ORDER

(Order of the Court was made by SATISH K.AGNIHOTRI, J.)

With the consent of the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent, the writ petition is taken up for final disposal.

2.Seeking a direction to the second respondent to take I.A.No.1236/16 in S.A.No.37/2016 dated Nil, February 2016 on file, adjudicate the same and pass orders within a stipulated time, the petitioner has come up with this writ petition.

3.It is the case of the petitioner that he availed loan for his business from the first respondent Bank and also availed overdraft facility amounting to Rs.25 lakhs, on furnishing security to the value of Rs.65 lakhs. Thereafter, the petitioner applied for additional loan of Rs.20 lakhs. Since the said application was not considered by the first respondent Bank for a long time, the petitioner preferred a writ petition in W.P.No.11273 of 2015 and by order dated 24.12.2014, the first respondent Bank was directed to consider the petitioner's application within a period of four weeks from the date of receipt of the said order. As the said order was not complied with, the petitioner filed a contempt petition and it is yet to be taken on file. While so, the first respondent Bank issued a notice under Section 13(2) of SARFEASI Act, demanding Rs.38,58,852/- with interest. Subsequently, the first respondent issued possession notice dated 02 December 2015, against which, the petitioner preferred S.A.No.37 of 2016 along with an application in I.A.No.1236 of 2016 before the Debts Recovery Tribunal - III, Chennai. During the pendency of the appeal before the Tribunal, e-auction notice dated 20 January 2016 was issued, fixing the date of auction as 29 February 2016.

4.Learned counsel appearing for the first respondent Bank submits that the proposed auction has not yielded any result as no one has come forward to participate and thus a fresh proceeding has to be initiated. He would further submit that in such view of the matter, the writ petition has become infructuous. It is submitted that if a proceeding is initiated for fresh auction sale, the petitioner will be given a proper notice under the provisions of law. In that event, the petitioner will have full liberty to make representation and place the case.

5.In the given facts situation, we are not inclined to entertain this writ petition at this stage as it has become infructuous. Accordingly, the writ petition is dismissed, reserving liberty to the petitioner to raise all the legal and factual issues before the Debts Recovery Tribunal - III, Chennai, under the provisions of law, if so advised. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

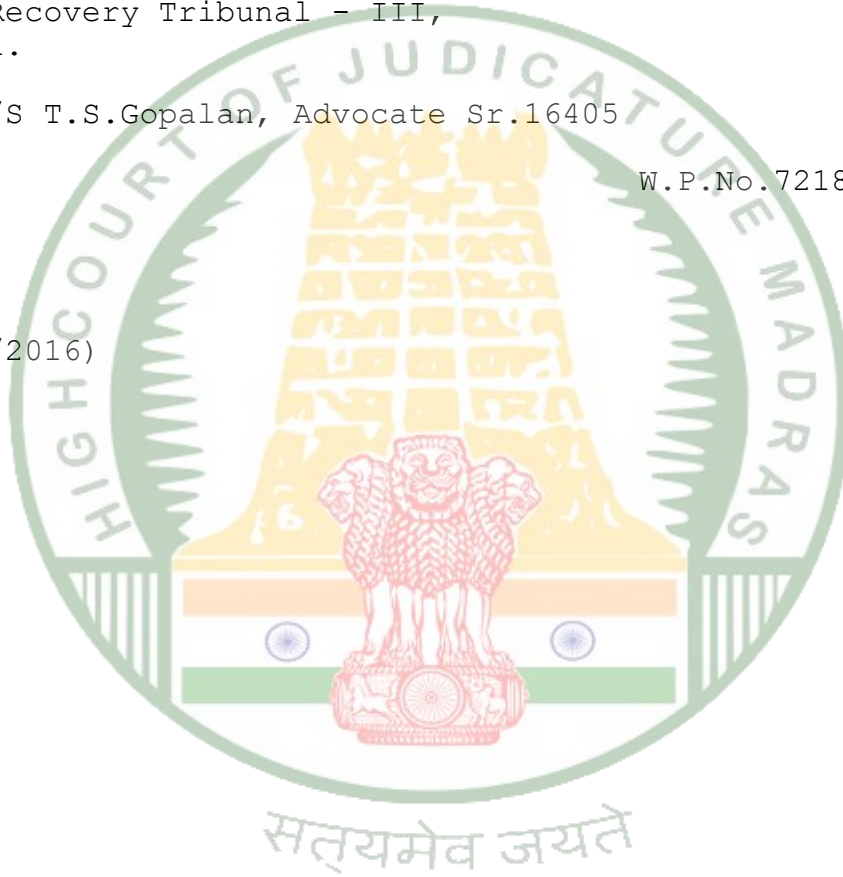
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2.The Presiding Officer,
Debts Recovery Tribunal - III,
Chennai.

+1cc to M/S T.S.Gopalan, Advocate Sr.16405

W.P.No.7218 of 2016

ak(CO)
srg(29/03/2016)



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