

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-03-2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

W.P.No.9883 of 2016  
and WMP No.8855 of 2016

A.I.D Rozario

.... Petitioner

vs

1. The Branch Manager,  
Tamil Nadu Industrial  
Investment Corporation Ltd  
(A Government of Tamil Nadu  
Undertaking),  
Chennai Branch,  
692, Anna Salai,  
Nandanam,  
Chennai - 600 035

2. S. Joseph Premkumar

3. S. Antony Vijayakumar

4. Tmt.Sonia Vijayakumar

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the notification No.TIIC/CHN/SRB/2015-16 dated 06.01.2016, for taking possession of the notice mentioned property, issued by the first respondent and quash the same and consequently not to take any further action towards taking possession of the said property or not create any encumbrance, sale.

For petitioner : Mr.N.V. Srinivasan  
for M/s. NVS and Associates

For 1<sup>st</sup> respondent: Mr.K. Mahesh

ORDER

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the notification No.TIIC/CHN/SRB/2015-16 dated

06.01.2016, for taking possession of the notice mentioned property, issued by the first respondent and quash the same and consequently not to take any further action towards taking possession of the said property or not create any encumbrance, sale.

2. Heard Mr.N.V. Srinivasan, learned counsel for the petitioner and Mr.K. Mahesh, learned counsel for the first respondent.

3. On a perusal of the impugned Notice dated 06.01.2016, it could be seen that the first respondent had requested the petitioner to settle the account under Onetime Settlement Scheme within 15 days from the date of receipt of that letter, failing which, they will initiate proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, 'SARFAESI Act'). The petitioner also gave his reply to the first respondent on 03.03.2016. At this stage, the petitioner has approached this Court stating that the petitioner is neither a borrower nor a guarantor and therefore, no action can be taken against the petitioner under SARFAESI Act.

4. When the first respondent had requested the petitioner to settle the dues within 15 days and the notice was duly replied by the petitioner and also when the first respondent has not initiated any action under SARFAESI Act till this date, the present writ petition cannot be entertained at this stage. That apart, if the first respondent has initiated any action under SARFAESI Act, in that case, the petitioner can challenge the proceedings in accordance with law.

5. The petitioner, having sent his reply to the first respondent's notice dated 06.01.2016, the notice cannot be set aside at this point of time. Therefore, filing of the writ petition as against the impugned notice dated 06.01.2016 is at a premature stage, which deserves to be dismissed. Accordingly, the writ petition is dismissed. No costs. Consequently, connected MP is closed.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sr

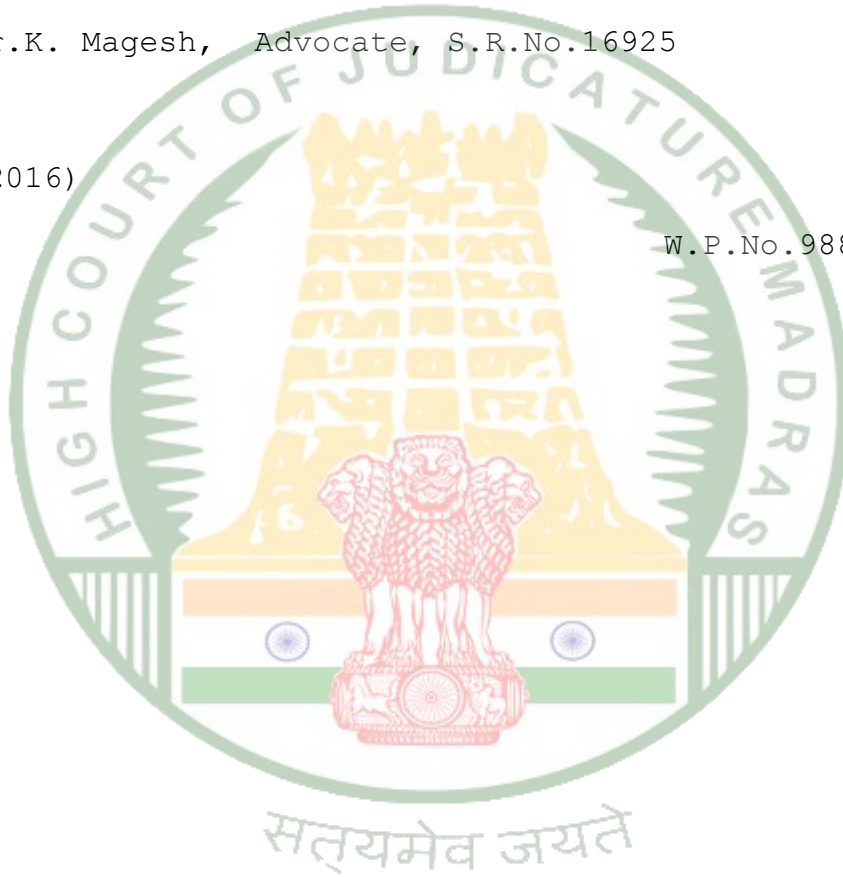
To

The Branch Manager,  
Tamil Nadu Industrial Investment Corporation Ltd  
(A Government of Tamil Nadu Undertaking),  
Chennai Branch,  
692, Anna Salai,  
Nandanam,  
Chennai - 600 035

+1cc to Mr.K. Magesh, Advocate, S.R.No.16925

CTK(CO)  
EU(29/03/2016)

W.P.No.9883 of 2016



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