



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2016

CORAM

WEB COPY

THE HONOURABLE **MR. JUSTICE V. BHARATHIDASAN**

W.P (MD) .No.2872 of 2013

and

MP. (MD) .No.1 of 2013

D.Ramesh

... Petitioner

Vs

The Branch Manager,
Indian Bank,
Rajapalayam Branch,
825, Tenkasi Road,
Rajapalayam,
Virudhunagar District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of mandamus forbearing the respondent from publishing the photographs of the petitioners and other debtors in any newspapers or magazine or journal whatsoever as cautioned by the respondent in the notice dated 13.02.2013 addressed to the petitioner and other debtors.

For petitioner : Mr.Niranjana S.Kumar for
Mr.V.Balaji

For Respondents : No appearance

ORDER

The petitioner has filed this writ petition, for a direction, forbearing the respondent from publishing the photographs of the petitioners and other debtors in any newspapers or magazine or journal whatsoever as cautioned by the respondent in the notice dated 13.02.2013 addressed to the petitioner and other debtors.

2. According to the petitioner, he borrowed a loan from the respondent Bank and subsequently, he was unable to repay the same in its entirety. In this regard, proceedings under the SARFAESI Act was initiated against the petitioner. Subsequently, by a communication dated 13.02.2013, the petitioner and three others were threatened to repay the entire loan on or before



23.02.2013, otherwise their photographs will be published in newspapers. According to the petitioner, the respondents are taking steps to publish the photographs of the petitioner along with the loan Account Number in the the newspapers.

WEB COPY

3. The prayer sought for in the writ petition is already covered judgment of by this Court in **W.P.No.17761 of 2006, dated 22.11.2006, (K.J.Doraisamy Vs The Assistant General Manager and another)**, wherein, this Court has held as follows:

"30.Coming to the authority of law, by which the Bank may be allowed to publish the photograph of th e defaulter, it is seen that Section 13(4) of the SARFAESI Act authorizes the Bank to take possession of the secured asset and sell it. The procedure for such sale is prescribed under Rule 8 of the Security Interest (Enforcement) Rules, 2002. Sub-rule (1) of Rule 8 reads as under: - & quot;

8.Sale of immovable secured assets:

(1)Where the secured asset is an immovable property, the authorised officer shall take or cause to be taken possession, by delivering a possession notice prepared as nearly as possible in Appendix IV to these rules, to the borrower and by affixing the possession notice on the outer door or at such conspicuous place of the property & quot; Appendix IV to the said rules which contains the Form in which the Possession Notice is to be issued by the Bank, steer clear any doubt that one may have.

Para 2 and 3 of the Format of Notice under Appendix IV reads as follows:-

The borrowers having failed to repay the amount, notice is hereby given to the borrower and the public in general that the undersigned has taken possession of the property described herein below in exercise of powers conferred on him/her under Section

13(4) of the said Ordinance read with rule 9 of the said Rules on this.... day.... of the year..... The borrower in particular and the public in general is hereby cautioned not to deal with the property and any dealings with the property will be subject to the charge of the (name of the Institution) for an amount



Rs..... and interest thereon. Thus the Statutory rules themselves provide for a notice not merely to the defaulting borrower, but also to the public in general. Therefore, the threat held out by the Bank to public the photograph of the borrower and the surety, is also authorized by the statutory rules."

4. In view of the earlier order passed by this Court, the writ petition fails and accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Branch Manager,
Indian Bank,
Rajapalayam Branch,
825, Tenkasi Road,
Rajapalayam,
Virudhunagar District.

W.P(MD) .No.2872 of 2013
10.11.2016

SMA/PV/14.12.2016:3P/2C