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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 2343 of 2017.

Selvaraj Suranthiran

..Petitioner.

Vs

Indian Overseas Bank & Ors

..Respondents.

Mr. Maggo Soniya Mohansingh for the Petitioner.

Mr. Prathamesh Kamat a/with Ms. Swapna Rachure
i/by T.N. Tripathi & Co. for the Respondent-bank.

CORAM : R.M. BORDE & A.S.GADKARI, JJ.

DATE : 20th February, 2017.

P.C.

1) The petitioner is claiming to be a tenant of the premises/ building area 10000 square feet, which is a secured asset being Plot/Shed No. 41, Netaji Apparel Park, New Tirrupur North of N.H.47, (Covai-Salem) Main Road, Ettiveerampalayam Village, District Tirrupur-641 666 (hereinafter referred to as “the property in question”). The petitioner is objecting to the notice of sale by private treaty issued by the respondent-bank.

2) It is not in dispute that the property in respect of which the tenancy is claimed by the petitioner is the secured

asset mortgaged with the bank by the principal borrower. The petitioner claims tenancy rights in respect of the property in question and in order to substantiate his claim, he has placed reliance on the rent receipts issued by M/s J-Marks Lifestyles Pvt. Ltd. The rent receipts are allegedly issued on 1st June, 2011, 1st September, 2012, 1st December, 2012, 1st March, 2013, 1st June, 2013, 1st September, 2013, 1st December, 2013, 1st March, 2014, 1st June, 2014, 1st September, 2014, 1st December, 2014, 1st March, 2015, 1st June, 2015, 1st September, 2015, 1st March, 2016, 1st September, 2016 and 1st December, 2016.

3) On perusal of the photostat copies of the rent receipts which are annexed to the petition, it is noticed by us that all these receipts, issued during the span of about four years, are written in the same style by the same person. Prima facie, it does appear to us that the rent receipts have been prepared at once. The only difference in the rent receipts prior to 1/9/2015 and for the later period is the rent of the tenanted premises. Considering the style of handwriting, prima facie we are of the opinion that the rent receipts are prepared for claiming protection. We asked the learned

counsel appearing for the petitioner as to whether the petitioner possesses any other evidence, except the rent receipts, so as to substantiate his claim. However, at this stage, the petitioner is unable to produce any evidence in respect of his tenancy of the property in question.

4) The learned Counsel appearing on behalf of the respondent-bank has invited our attention to Writ Petition No. 1224 of 2016 presented by one D. Ganpathi against the Indian Overseas Bank and one another. The said writ petition has been rejected by this Court by an order dated 29th January, 2016. The petitioner in the aforesaid petition also claimed to be a tenant in respect of the same property i.e. Plot/Shed No. 41, Netaji Apparel Park, Ettiveeram Palayam Village Tirrupur, (State of Tamilnadu).

5) In order to substantiate his claim, the petitioner in the aforesaid petition placed reliance on the rent receipts issued by the landlord on 5th March, 2012 7th December, 2015. The signatures of the landlord appearing on the rent receipts annexed to the aforesaid D. Ganpathi's petition and the signatures of the landlord in the instant matter appearing on the rent receipts appear to be one and the same. The period

mentioned in the rent receipt of December, 2015 also overlaps so far as the rent receipts which are produced in the instant petition. In the instant petition, the petitioner who claims to be the tenant has placed reliance on the rent receipts issued on 1/11/2011 onwards till March, 2016. It does prima facie appear that the petitioner in Writ Petition No. 1224 of 2016 as well as the petitioner in the instant petition are claiming tenancy in respect of the same premises. Since the Writ Petition No. 1224 of 2016 has been rejected by this Court by an order dated 29th January, 2016, we do not find any reason to entertain this petition. The petitioner in both the petitions i.e. earlier petition presented by D. Ganpathi and the petitioner in the instant petition are not in a position to establish their claim as tenants by producing any independent evidence apart from the rent receipts allegedly issued by the landlord.

6) For the reasons recorded above, no interference is called for in extraordinary jurisdiction under Article 226 of the Constitution of India. The petition being devoid of substance stands rejected.

7) Since it is noticed that prima facie the claim raised by the petitioner in the instant petition is not genuine and for

the reasons quoted above the request made by the petitioner for grant of a limited protection so as to facilitate him to approach the Apex Court, stands rejected. No order as to costs.

(A.S. GADKARI,J)

(R.M. BORDE, J.)