

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.4.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.5654 of 2017
and
W.M.P.No.6039 of 2017

P.Rajendran

... Petitioner

Versus

- 1 The Union of India
Rep. by its Secretary
Ministry of Finance
Department of Economic Affairs
New Delhi 110 001
- 2 The Chief Manager & Authorised Officer
Bank of India
No.624 Fort Main Road,
Shevapet Salem 636 002
Salem District.
- 3 The Chief Manager &
Authorised Officer
Asserts Recovery Department
Star House
No.224 Oppanakara Street
Coimbatore 641 001
Coimbatore District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of declaration declaring Rule 8 (1) of Rule 2002 of SARFAESI Act as unconstitutional and consequently to declare the possession taken on 28.12.2016 and 03.01.2017 by the 2nd respondent under section 13 (4) of the Act as null and void in respect of the petitioner's property in Survey No.32/7-A, 32/7-A1 to an extent of 2618 sq.ft. at Vellakalpatty Village, Omalur Taluk.

For petitioner : Mr.M.Elango
For R2 : Mr.F.B.Benjamin George

ORDER

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

Heard the learned counsel appearing for the petitioner and Mr.F.B.Benjamin George, learned counsel appearing for the second respondent-Bank.

2. The writ petition has been filed seeking issuance of a writ of declaration declaring Rule 8 (1) of Rule 2002 of SARFAESI Act as unconstitutional and consequently to declare the possession taken on 28.12.2016 and 03.01.2017 by the 2nd respondent under section 13 (4) of the Act as null and void in respect of the petitioner's property in Survey No.32/7-A, 32/7-A1 to an extent of 2618 sq.ft. at Vellakalpatty Village, Omalur Taluk.

3. It appears that the petitioner has not approached the bank authorities regarding settlement of the dues to be paid, however, stating that there is interpretation of Rule 8(1) and so he has an arguable point. We are not convinced on the point raised by the learned counsel appearing for the petitioner. The writ petition is dismissed. However, we make it clear that the petitioner can approach the bank directly to settle the dues by way of one time settlement and in such event, it is for the bank to come forward to accept the same. No costs. The connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

सहायक न्यायाधीश

Sub Assistant Registrar

ssk.

To:

- 1 The Secretary
Union of India
Ministry of Finance
Department of Economic Affairs
New Delhi 110 001

WEB COPY

2 The Chief Manager & Authorised Officer
Bank of India
No.624 Fort Main Road,
Shevapet Salem 636 002
Salem District.

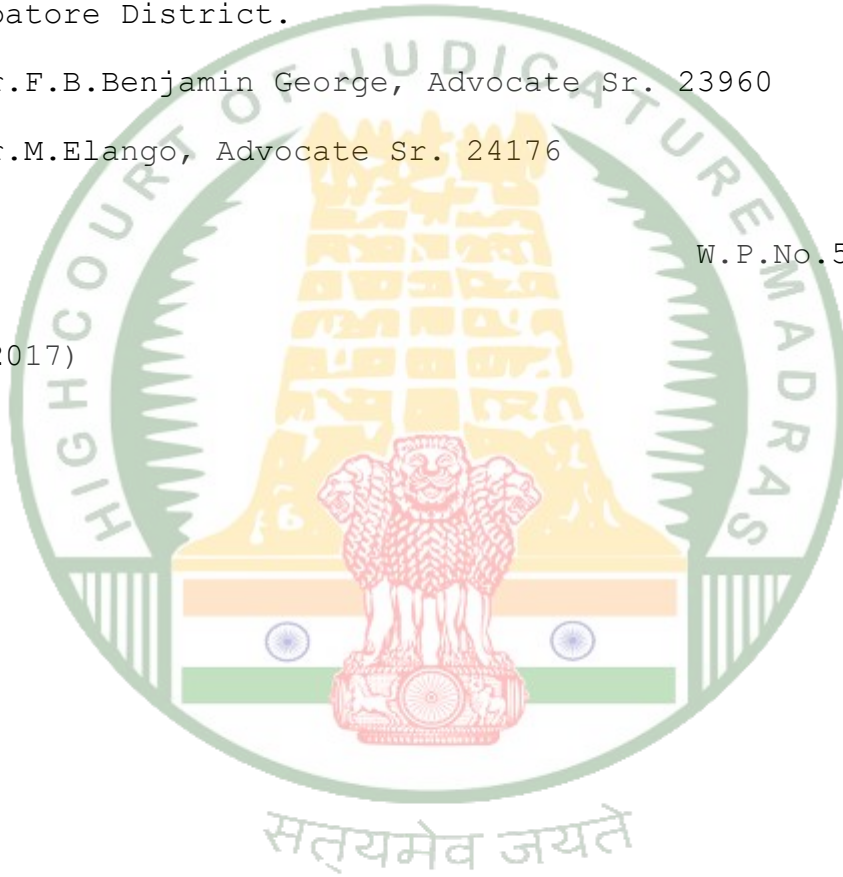
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Coimbatore District.

+1cc to Mr.F.B.Benjamin George, Advocate Sr. 23960

+1cc to Mr.M.Elango, Advocate Sr. 24176

W.P.No.5654 of 2017

VGI(CO)
VR(22/06/2017)



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