

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.668 of 2014

and

M.P.No.1 of 2014

M.Meena ... Petitioner

vs

1.The Chief Manager,
Indian Bank,
Asset Recovery Management Branch,
No.55, Ethiraj Salai, Egmore, Chennai.

2.M/s.Ramasamy & Co,
Rep. by its Partner
S.Balasubramaniam
No.80, Saidapet Road,
Vadapalani, Chennai-24. ... Respondents

Criminal Revision Case filed under section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order of the Chief Metropolitan Magistrate, Egmore, in Crl.M.P.No.3471 of 2013 in Crl.M.P.No.1362 of 2010 dated 21.04.2014.

For Petitioner : Mr.R.Vijayaraghavan
For Respondents : Mrs.Rtia Chandrasekar
for M/s.Aiyar & Dolia for R-1

O R D E R

This Criminal Revision Case has been filed against the order of dismissal. Earlier, the petitioner has filed a petition to implead herself as respondent in a petition filed by the first respondent under Section 14 of the SARFAESI Act. The petitioner is claiming half share of the property, which was sought to be take possession by the first respondent.

2. The learned counsel appearing for the petitioner would submit that the first respondent Bank filed a petition for recovery of the loan amount and the same is still pending. In the meantime, the respondent Bank initiated a proceedings under SARFEASI Act, which was challenged by the petitioner before the DRT-III in S.A.No.348 of 2012 and the Dept Recovery Tribunal set aside the auction sale proceedings, on the ground that the

petitioner is entitled for 50% share in the disputed property. Now, the respondent filed an appeal against that order and the same is pending. Subsequently, the petitioner also filed a suit for partition, in which a preliminary decree was granted, holding that the petitioner is entitled for half share of the disputed property. In the above circumstances, the petitioner is a necessary party in the application filed by the first respondent Bank.

3. The above factual aspects are not disputed by the learned counsel appearing for the first respondent Bank. Considering the above facts and circumstances of the case, as the Debt Recovery Tribunal already passed an order holding that the petitioner is entitled for half share of the disputed property and she has also got a Civil Court decree in her favour. Now, the first respondent sought to take possession of the property. Hence, the petitioner is also a necessary party in the application filed by the petitioner. In the said circumstances, the order passed by the Court below is liable to be set aside. Accordingly, the order of the Court below is set aside and the petitioner is directed to implead as party respondent in the proceedings and after impleading the petitioner, the Court below is directed to proceed with the application as per law.

4. In the result, the criminal revision case is allowed. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

rrg
To

1. The Chief Metropolitan Magistrate,
Egmore, Chennai.

2.The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.Aiyar & Dolia,, Advocate SR.No.78077

+1cc to Mr.R.Vijayaraghavan, Advocate SR.No.78350

Cr1.R.C.No.668 of 2014

SSD(CO)
GN(27/12/2017)